



WEB COPY

C.R.P. (PD) No.2305 of 2022
& C.M.P.No.11815 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P. (PD) No.2305 of 2022
& C.M.P.No.11815 of 2022

Pichandi

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Petitioner /
Plaintiff

versus

1.Appaswamy Associates,
Represented by its Partner,
Jeyaraj. A
Having Office at No.20,
SBI Officers Colony,
Arumbakkam, Chennai.

2.Balaji
3.Rajasekar
4.Srinivasan

...

Respondents /
Defendants

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 21.04.2022 made in I.A.No.615 of 2016 in O.S.No.496 of 2015 on the file of the learned Additional District Munsif, Poonamallee by allowing this petition.

For Petitioner

: M/s.P.Shanthini
for Mr.R.Karthikeyan



ORDER

This Civil Revision Petition has been preferred challenging the order of the learned Additional District Munsif, Poonamallee dated 21.04.2022 made in I.A.No.615 of 2016 in O.S.No.496 of 2015.

2. The revision petitioner is the plaintiff who has filed the suit against the defendants for the relief of declaration of Sale Deed dated 13.10.2014 as null and void; the plaintiff had chosen to pay the court fee under Section 25(d) of the Tamil Nadu Court Fees and Suits Valuation Act [hereinafter referred to as 'Court Fees Act']; the first respondent / first defendant filed a petition to reject the plaint by stating that the court fee for the suit ought to have been paid under Section 40 of the Court Fees Act and the said petition was allowed by giving a direction to the plaintiff to pay the court fee under Section 40 of the Court Fees Act. Aggrieved over that, the plaintiff has filed the present Civil Revision Petition.

3. The learned counsel for the revision petitioner submitted that the Sale Deed on which the relief of declaration sought is not supported by consideration; since the sale consideration has not been passed the plaintiff has chosen to pay the court fee under Section 25(d) of the Court



Fees Act; the learned trial Judge without considering the above vital aspects had passed the order directing the plaintiff to pay the court fee under Section 40 of the Court Fees Act and hence it should be reversed.

4. The contention that the sale consideration was not passed is the plea taken by the plaintiff in the suit. But the fact remains that the Sale Deed which is executed for a sale consideration as specified in the deed is challenged in the suit. There is a specific provision under Section 40 in the Court Fees Act, which prescribes the court fee for cancelling the deeds. As per Section 40 of the Court Fees Act, if any document is sought to be cancelled the amount has to be valued on the value of the property for which sale deed was executed and the court fee should be paid only on that basis.

5. Admittedly the alleged Sale Deed dated 13.10.2014 is said to have been executed for a valuable consideration of Rs.26,00,000/-. The allegations of not receiving the consideration will not exclude the plaintiff from paying the court fee as per Section 40 of the Court Fees Act. The liability to pay the court fee can only be in accordance with the Court Fees Act and not otherwise. Since the learned trial Judge has rightly



appreciated the matter in issue and allowed the petition, I do not find any ground for interference. However it is seen that the learned trial Judge has not given any time limit to the petitioner to pay the court fee, a direction should be given that the court fee should be paid by the plaintiff within a period of four weeks from the date of receipt of a copy of this order.

6. In view of the above stated reasons, this Civil Revision Petition is dismissed and the order dated 21.04.2022 passed by the learned Additional District Munsif, Poonamallee in I.A.No.615 of 2016 in O.S.No.496 of 2015 is hereby confirmed and the revision petitioner is directed to pay the court fee as assessed under Section 40 of the Court Fees Act within a period of four weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed. No costs.

29.07.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

sri



To

The Additional District Munsif, Poonamallee.

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R.N.MANJULA, J.

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