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C.R.P. No.3833 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 08.07.2022

ORDERS DELIVERED ON : 14.10.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. No.3833 of 2014

and M.P.No.1 of 2014

Nazir Ahamed

.. Petitioner / Petitioner

Versus

- 1.Jahan Ara Begum
- 2.Mohamed @ Mufeen
- 3.Ahamed @ Asin
- 4.Fathima
- 5.Minor Rahamathulla

(Rep. by guardian mother 1st respondent)

.. Respondents/respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order in Pauper O.P.No.119 of 2012 dated 27.06.2014 on the file of the Principal District Judge, Villupuram.

For Petitioner : Mr.N.Suresh

For R-1 : Mr.Xavier Felix



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ORDER

This Civil Revision Petition has been filed against the fair and decretal order in Pauper O.P.No.119 of 2012 dated 27.06.2014 on the file of the Principal District Judge, Villupuram.

2. Pauper O.P.No.119 of 2012 has been filed by the revision petitioner herein who is the plaintiff seeking to declare him as indigent person and also for the grant of relief of declaration of his right and title over the suit A Schedule property and also for the recovery of possession of the same and also for other reliefs.

3. It was pleaded by the revision petitioner/plaintiff before the trial court that he purchased the suit A Schedule property and he was residing there with his family. According to him, defendants 1 to 4 who are none other than his wife and sons treated him with disrespect thereby caused mental agony and subsequently, he was thrown out of the house. This caused him to issue a legal notice calling



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upon the 1st defendant to hand over the possession of suit A Schedule property.

According to the plaintiff, he is an indigent person, he has no source of income to pay court fee and except suit A Schedule property, there is no other property and so prayed for treating him as an indigent person and consequently permit him to conduct the suit *informa pauperis* without payment of court fee.

4. The defendants filed counter in the said O.P., and submitted that plaintiff is working as Accountant and earning monthly income of Rs.5000/- and he sold immovable properties and the suit A Schedule property was being enjoyed by the plaintiff and respondents jointly. It is stated that the petitioner has wherewithal to pay the court fee.

5. The trial court while dealing with the application, examined witnesses and marked exhibits/documents. The learned Judge finding that the 1st respondent filed suit for partition in District Munsif court, Vanur, in O.S.No.82 of 2012 in respect of the schedule mentioned properties and while that suit is pending, the present suit is filed by the petitioner/plaintiff as *informa pauperis*, which may



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result in conflicting judgment. The learned Judge also found that there is no doubt that the petitioner/plaintiff is having his due share in suit A Schedule property and his right will be subject to the result of the pending suit in O.S.No.82 of 2012 and therefore, cannot be treated as an indigent person.

6. In such view of the matter, the Pauper O.P.No.119 of 2012 filed by the plaintiff came to be dismissed and directed the petitioner to pay the necessary court fee on or before 30.07.2014.

7.It is a matter of record that the civil revision petition is of the year 2014. The pauper O.P.is of the year 2012. Before this court, the learned Government Advocate (Civil Side), produced the report of the Revenue Divisional Officer, Vanur, dated 11.03.2020. It has been mentioned in the said report that the revision petitioner is found to be working as Accountant in Jamil Masjid and earning Rs.7000/- per month ; further he possess terraced house at Kottakuppam Village and said house value is around Rs.14,07,250/- and his sons are working and so he cannot be said to be a pauper.



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8. Therefore, I do not find any reason to interfere with the order passed by the learned Principal District Judge, Villupuram, and accordingly, this Civil Revision Petition is dismissed. No costs.

14.10.2022

Index : Yes/No
Internet : Yes/No
Speaking order/Non-speaking order
Nvsri/pm

To
1.The Principal District Judge, Villupuram.

2.The Section Officer, V.R.Section
High Court of Madras.



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J.NISHA BANU,J.

Nvsri/pm

Order made in
C.R.P. No.3833 of 2014

14.10.2022