



CRP (MD) No.1933 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B. PUGALENDHI**

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Thankaraj : Petitioner

Vs.

1.V.Rajan

2.The District Collector,
Kanyakumari District. : Respondents

[R.2 *suo-motu* impleaded vide order dated 21.01.2022]

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the order dated 09.06.2015 passed by the District Judge, Kanyakumari at Nagercoil, in POP.No.180 of 2012.

For Petitioner : Mr.E.V.N.Siva

For Respondents : Mr.G.Ramanathan
for R.1

Mr.G.V.Vairam Santhosh,
Additional Government Pleader
for R.2



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ORDER

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This civil revision petition is filed as against the order passed by the learned District Judge, Kanyakumari at Nagercoil, in POP.No.180 of 2012, dated 09.06.2015.

2.The first respondent has filed a suit for recovery of money as against the petitioner in O.S.No.116 of 2005 before the Sub Court, Padmanabhapuram. She is the first wife of the petitioner, their marriage was solemnized on 15.09.1996 and due to difference of opinion, they got separated in the year 1997. The learned Subordinate Judge, Padmanabhapuram, by order dated 23.09.2011, allowed the suit and directed the petitioner to pay a sum of Rs.2,11,560/- together with interest at the rate of 12% p.a., from the date of suit till the date of decree and thereafter, at the rate of 6% p.a., till the date of realization of the amount and further ordered to pay a sum of Rs.7530/- towards the cost of the suit and also directed to pay the Court fee of Rs.15867.50/- to the Government on or before 02.10.2011.



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3. Aggrieved over the same, the petitioner preferred to file an appeal before the District Court, Nagercoil. However, claiming to be a poor person with no financial circumstances, the petitioner has filed POP.No.180 of 2012 under Order 33 Rule 2 CPC seeking permission to file the appeal as an indigent person. The learned District Judge, by order dated 09.06.2015, dismissed the said application, holding that the petitioner owns a house property and that he is having sufficient means to pay the Court fee. Aggrieved, the petitioner has preferred this revision petition.

4. It appears that three documents, Ex.R1 to Ex.R3, were marked before the District Court by the respondent to show that the petitioner owns a property and the learned District Judge, by appreciating the same, has rejected the petitioner's plea. However, the petitioner contended that he is not having any property and that he is a poor person having no means. In order to ascertain the actual scenario, this Court by order dated 21.01.2022, *suo-motu* impleaded



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the District Collector, Kanyakumari and directed him to file a report as to the financial status of the petitioner.

5.The District Collector, Kanyakumari, has accordingly filed a report that the petitioner owned a property [9 cents], however, on verification, it is found that the petitioner has sold the property to his sister, Tmt.Valliammal. The said Valliammal in turn has settled the property in favour of one Tmt.Sarojini, whom the petitioner married subsequently after separating from his first wife / the first respondent herein. The report of the District Collector further reads that the petitioner earns his livelihood by taping rubber trees in the nearby plantation and other agricultural works and is having a monthly income of Rs.10,000/- (approx). His wife, Tmt.Sarojini, is working in a cashew factory as a daily wage employee and earning Rs.4,000 per month. Therefore, the petitioner is having the financial capability to pay the Court fee for filing the appeal suit and not an indigent person.

6.The report of the District Collector reveals that the petitioner owns a property and is having sufficient means



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to pay the Court fee. In fact, even before the District Court, it was established by the respondent by producing Ex.R1 to Ex.R3 that the petitioner owns a house property.

7. Therefore, this Court is not inclined to interfere with the impugned order and this civil revision petition is accordingly dismissed. No costs.

Index : Yes / No
Internet : Yes
gk

04.07.2022

To

1. The District Judge,
Kanyakumari at Nagercoil.
2. The District Collector,
Kanyakumari at Nagercoil.



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B. PUGALENDHI, J.

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