



C.R.P PD(MD)No.1935 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 23.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

C.R.P(MD)No.1935 of 2022 and
CMP(MD) No.8807 of 2022

Karuppaiah

...Petitioner

Vs

Eswara Prasad

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed by the learned District Munsif, Uthamapalayam in I.A.No.3 of 2022 in O.S.No.301 of 2014, dated 16.08.2022 and allow the Civil Revision Petition.

For Petitioner : Mr.C.Jeganathan

ORDER

This Civil Revision Petition is filed as against the fair and decreetal order passed by the learned District Munsif, Uthamapalayam, in I.A.No.3 of 2022 in O.S.No.301 of 2014, dated 16.08.2022.



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2.The respondent/plaintiff has filed the suit in O.S.No.301 of 2014 before the District Munsif Court, Uthamapalayam, seeking for the relief of recovery of possession of the suit schedule property. The value of the suit property was fixed at Rs.50,000/-, based on which, necessary court fee was also paid. The petitioner/defendant has also filed his written statement and the suit is posted for trial. Examination of PW 1 in chief was also completed. At that stage, the petitioner/defendant has filed an Interlocutory Application in I.A.No.3 of 2022, under Order 14 Rule 2 of Civil Procedure Code, to transfer the above suit to the appropriate Court on the ground of pecuniary jurisdiction. The petition was dismissed by the learned District Munsif Court, Uthamapalayam on the ground that the petitioner/defendant has not taken this plea in his written statement and filed this application after eight years from the date of filing of the suit and particularly when the suit was posted for cross examination of PW 1 and also the



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petitioner/defendant has not substantiated that the value of the property is more than the value prescribed in the plaint. Aggrieved over the same, the present Civil Revision Petition is filed.

3.The learned counsel appearing for the petitioner/defendant submits that the jurisdiction of the Court can be raised at any point of time and the District Munsif Court, Uthamapalayam is not having jurisdiction to decide the issue in the above suit. Therefore, the trial Court ought to have referred the matter to the concerned Subordinate Court in the application filed by the petitioner in I.A.No.3 of 2022. However, it was dismissed without assigning any reasons. The learned counsel for the petitioner has also relied upon the judgment of the Honourable Supreme Court in the case of *S.N.D.P.Sakhayogam Vs Kerala Aatavidya Sangham and others* reported in (2017) SCC 830 and the relevant portion is extracted as under:-



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“16.In our considered opinion, one question which goes to the root of the case affecting the very jurisdiction of the Court to try the suit, was not taken note of and if taken note of, it was not decided in its proper perspective by any of the Courts below. May be due to the reason, instead of raising the objection, the defendant appears to have conceded it.

17.Be that as it may, in our considered view, the issue of jurisdiction which goes to the root of the case, if found involved has to be tried at any stage of the proceedings once brought to the notice of the Court.”

4.This Court considered the submissions of the learned counsel for the petitioner and also perused the materials placed on record. Since no adverse order is going to be passed, notice to the respondent is dispensed with.



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5.The petitioner/defendant has filed the above interlocutory application in I.A.No.3 of 2022 in O.S.No.301 of 2014 under Order 14 Rule 2 of Civil Procedure Code, on the ground of pecuniary jurisdiction. The said suit was filed by the respondent/plaintiff before the District Munsif Court, Uthamapalayam, for the relief of recovery of possession in the year 2014. The petitioner/defendant has filed his written statement on 11.06.2015. However, he has not raised the issue of pecuniary jurisdiction in the written statement. This interlocutory application was also filed, when the suit was posted for cross examination of P.W.1, i.e. after eight years from the date of filing the suit. The trial Court, considering the stage and as per the provisions of Section 12 of the Tamil Nadu Court-Fees and Suits Valuation Act 1965, has rightly dismissed the interlocutory application. Therefore, there is no reason to interfere with the order of the trial Court.



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6. Section 12(2) of the Tamil Nadu Court-Fees and Suits

Valuation Act 1965 imposes a bar on the defendant to raise the question of valuation of the suit properties after commencement of the trial of the suit. Admittedly, in this case, the suit was filed in the year 2014. The written statement was filed on 11.06.2015. No such plea was taken in the written statement and this plea has been taken only at the time of cross examination of P.W.1.

7. The Hon'ble Apex Court in ***Re Harshad Chiman Lal Modi vs. DLF Universal and others***, reported in ***AIR 2005 SC 4446***, held as follows:

“28.So far as territorial and pecuniary jurisdictions are concerned, objection to such jurisdiction has to be taken at the earliest possible opportunity and in any case at or before settlement of issues. The law is well settled on the point that if such objection is not taken at the earliest, it cannot be allowed to be taken at a subsequent stage.”



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8.In view of the above, this Court is not inclined to entertain the Civil Revision Petition. Accordingly, the Civil Revision Petition is dismissed at the admission stage itself. However, considering the age and stage of the suit, the learned District Munsif, Uthamapalayam is directed to conclude the trial and dispose of the suit in O.S.No.301 of 2014 within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

23.09.2022.

Index : Yes / No.

Internet : Yes / No.

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To

The District Munsif Court, Uthamapalayam



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B.PUGALENDHI, J.

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