



CRP(MD)No.2275 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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J.Jamal Mydeen

... Petitioner

versus

M/s.Sakthi Finance Ltd.,
Rep. by its Manager,
No.62, Nanjappa Street,
Coimbatore – 641 001.

... Respondent

Civil Revision Petition filed under Article 227 of Constitution of India, against the impugned docket order dated 16.09.2022 passed by the learned Subordinate Judge, Theni, returning the plaint.

For Petitioner : Mr.K.Appadurai

ORDER

This Civil Revision Petition is filed to set aside the docket order dated 16.09.2022 passed by the learned Subordinate Judge, Theni,



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returning the plaint on the ground of jurisdiction.

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2. The petitioner has presented the above plaint for a direction to the respondent/defendant to pay a sum of Rs.5,00,000/- towards compensation for mental agony suffered by him due to attachment of his property in E.P.No.366 of 2019.

3. The case of the petitioner/plaintiff is that the respondent/defendant, a Finance Company, has attempted to attach his property in E.P.No.366 of 2019 and he has filed E.A.No.1 of 2020 in E.P.No.366 of 2019 for raising the attachment of his property, before the Fast Track Mahila Court, Theni and the Court had allowed the said application by imposing a cost of Rs.3,000/- on the respondent/defendant. Therefore, he filed the above suit claiming compensation. However, the learned Subordinate Judge, Theni, returned the plaint that the property is situated at Cumbum, which is beyond the jurisdiction of the Court and neither the plaintiff nor the



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defendant resides within the jurisdiction of the Court. Aggrieved over the same, the present Civil Revision Petition is filed.

4. The learned counsel appearing for the petitioner submits that the Court has not properly appreciated the plaint and also the provisions of Section 16(e) C.P.C. According to him, the property is situated in Theni and therefore, the Sub Court, Theni, has got territorial jurisdiction.

5. This Court considered the submission made by the learned counsel for the petitioner and also perused the materials available on record.

6. The cause of action for the present suit is based on the order of attachment of plaintiff's property before the Fast Track Mahila Court, Theni, in E.P.No.366 of 2019. The order of attachment was cancelled on the application of the petitioner in E.A.No.1 of 2021 in



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E.P.No.366 of 2019, which was allowed with a cost of Rs.3,000/- to the respondent.

7. Section 16(e) of C.P.C. enables the petitioner/plaintiff to present the plaint claiming compensation for attaching the wrong immovable property where the subject matter situates.

8. Section 16 C.P.C. is extracted as under:

“ Subject to the pecuniary or other limitations prescribed by any law, suits-

(a) for the recovery of immovable property with or without rent or profits,

(b) for the partition of immovable property,

(c) for foreclosure, sale or redemption in the case of a mortgage of or charge upon immovable property,

(d) for the determination of any other right to or interest in immovable property,

(e) *for compensation for wrong to immovable property,*



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(f) for the recovery of movable property actually under distraint or attachment, shall be instituted in the Court within the local limits of whose jurisdiction the property is situate :

Provided that a suit to obtain relief respecting, or compensation for wrong to, immovable property held by or on behalf of the defendant, may where the relief sought can be entirely obtained through his personal obedience be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court within the local limits of whose jurisdiction the defendant actually and voluntarily resides, or carries on business, or personally works for gain.

Explanation.— In this section “property” means property situate in [India].

9. The petitioner/plaintiff claims the property to be under the jurisdiction of the Sub Court, Theni, whereas, in the return docket order, it is stated that the property is situated at the jurisdiction of Cumbum. If the property is not within the jurisdiction of the Court,



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then, the petitioner cannot have any exception under Section 16 of C.P.C.

10. A perusal of the return docket shows that the property is within the jurisdiction of Cumbum, which comes under Uthamapalayam Taluk and therefore, the jurisdiction lies with the Sub Court, Uthamapalayam. Further, the petitioner has not produced any document that the property is situated either at Theni or Cumbum and the subject property lies only within the jurisdiction of Sub Court, Theni. Therefore, this Court is not inclined to interfere with the order of the trial Court.

11. However, this Court is inclined to dispose of the Civil Revision with the following directions:

(I) The petitioner can present the suit before the concerned jurisdictional Court, where the attached property is situated;



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(ii) The concerned Court shall provide him an opportunity as per the decision of this Court in *S.Parameswari vs. Denis Lourdusamy*, reported in **(2011) 5 CTC 742** and take a decision on the jurisdiction of the plaint schedule property.

12. With the above directions, the Civil Revision Petition is disposed of. No costs.

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Index : Yes / No.

Internet : Yes / No.

Note: The Registry is directed to return the original plaint.



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B.PUGALENDHI, J.

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