



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.(MD)No.572 of 2017

and

C.M.P.(MD)No.2591 of 2017

1.S.K.Renganathan

2.R.Shankar

... Petitioners

-vs-

L.Srinivasan

... Respondent

Prayer :- Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 29.02.2016 made in Indigent OP.No.14 of 2014 on the file of the Principal District Judge, Trichy.

For Petitioners : Mr.K.Prabhakar

For Respondent : Mr.R.Subramanian

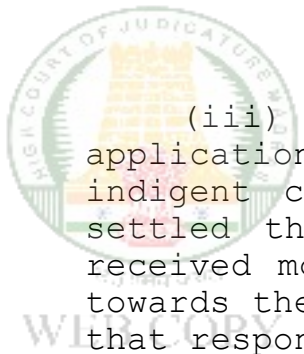
ORDER

The defendants have challenged the order passed by the learned Principal District Judge, Trichy, in allowing the petition filed by the respondent/plaintiff permitting him to file the appeal as an indigent person.

2.The brief facts are as follows:-

(i) The respondent/plaintiff has filed O.P.No.14 of 2014 as an indigent person seeking a declaration that the decree dated 12.07.2011 passed in O.S.No.54 of 2011 before the lok adalat held on 12.07.2011 was void, illegal and not binding on the respondent and consequently, set aside the same and also for recovery of possession of the B schedule property from the petitioners and for damages for their illegal occupation of the B schedule property from July 2011 to the end of 2014 and for future damages.

(ii) The applicant had filed this application as an indigent person stating that the total Court fee was payable over a sum of Rs.1,03,01,260/- and the petitioner, who is unemployed, does not have wherewithal and owns no movable or immovable property and he does not have the resources to pay the Court fee.



(iii) The petitioners/defendants had contested the said application stating that the allegation that the respondent was in indigent circumstances, is absolutely false. The respondent had settled the specific performance suit before the lok adalat and received money. In fact, a total sum of Rs.85 lakhs was received towards the sale of the property. The petitioners would also submit that respondent owned property at Manapparai which was deliberately suppressed in the said petition. However, the learned Judge proceeded to allow the said application.

(iv) Aggrieved by the same, the revision petitioners are before this Court. One of the grounds raised was that the Court had not followed the procedure contemplated under Order 33 of the Code of Civil Procedure.

3.Heard the learned counsel appearing on either side and perused the records.

4.The records would reveal that no report has been called for from the Government regarding the indigent circumstances of the respondent. The Government Pleader has not been called upon to produce the report.

5.In these circumstances, this Civil Revision Petition is allowed and the matter is remitted back to the learned Principal District Judge, Trichy, to follow the procedure contemplated under Order 33 of the Code of Civil Procedure. The learned Judge shall call for the report firstly and thereafter, the parties shall be permitted to adduce evidence and the learned Judge shall proceed to dispose of the petition within a period of one month from the date of receipt of a copy of the report. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

cp

Note:-

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.



To

The Principal District Judge,
Trichy.

+1 CC to M/s.R.SUBRAMANIAN, Advocate (SR-2281[F] dated 25/01/2022)

+1 CC to M/s.K.PRABHAKAR, Advocate (SR-2437[F] dated 25/01/2022)

C.R.P.(MD)No.572 of 2017 and

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Dated: 24.01.2022

RD(17.03.2022) 3P 4C