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C.R.P.(NPD) No.3457 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(NPD)No.3457 of 2019

Mani

... Petitioner

vs.

1.Loganathan
2.Sankaran
3.Sakunthalammal
4.Dhanasekaran
5.Shanmugam
6.Kalavathy
7.Dhara

... Respondents

Petition filed under Article 227 of the Constitution of India, against the order and decreetal order dated 26.10.2018 made in OS.No.951 of 2005, on the file of Principal District Munsif Court, Poonamalle.

For Petitioner : Mr.P.R.Thiruneelakandan

For Respondents : No Appearance

ORDER

This is a revision preferred by the defendant. I am surprised that the defendant who succeeded in obtaining an order is aggrieved by the same.



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2.O.S.No.951 of 2005 was filed by the respondents. To the said suit, a written statement was filed by the petitioner herein stating that the learned Principal District Munsif, Poonamallee has no jurisdiction on account of fact that the property is worth more than Rs.1,00,000/-. None the less, the Court proceeded on the merits of the case and dismissed the suit on 29.06.2012. While dismissing the suit, the Court gave a finding that the valuation of the plaint is wrong.

3.Aggrieved by the same, an appeal was preferred in A.S.No.77 of 2012 on the file of the Subordinate Court, Poonamallee. The learned Subordinate Judge taking note of the fact that the trial Court has given a finding that the Court fee paid is inadequate, directed the issue of Court fee to be taken up first and thereafter decide the other issue. On this basis, he remanded the suit.

4.The defendant aggrieved by the order of remand preferred CMA.No.1026 of 2017 before this Court. The appeal was dismissed confirming the order of remand. Thereafter, the learned trial Judge took up O.S.No.951 of 2005 and entered a finding that the trial Court has no pecuniary jurisdiction to deal with the suit. Therefore, she returned the plaint to be presented before the learned Subordinate Judge, Poonamallee.

5.Mr.P.R.Thiruneelakandan, learned counsel appearing for the



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petitioner would argue that the defendant is a person aggrieved by the said order passed by the learned trial Judge. I am rather surprised in the said submission.

6.It was the defendant, who took the objection that the Court did not have jurisdiction. The Court agreed with the submission made by the defendant and directed return of the plaint. If at all any one is aggrieved by such a return, it is only the plaintiff who should have filed an appeal as against the return of plaint under Order 43 Rule 1 of CPC. The defendant, having succeeded in convincing the Court that it has no jurisdiction, is not a person aggrieved against the order. There is no merits in the civil revision petition.

7.This civil revision petition is dismissed. No costs.

18.08.2023

Index:Yes/No

Speaking/Non-speaking order

Neutral Citation:Yes/No

vs

To

The Principal District Court,
Cuddalore.

V. LAKSHMINARAYANAN,J.



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