



C.R.P. No. 1092 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

C.R.P. No. 1092 of 2019

A. Balaji

... Petitioner

Vs.

1.Manivael

Kuppusamy (Died)

2.The Revenue Divisional Officer,
Having Office at Sub-Jail Road,
Cuddalore – 1.

3.The Thasildar,
Having Office at Beach Road,
Cuddalore – 1.

4.The Commissioner (B.D.O),
Panchayat Union Office,
Having Office at Tourist Bangalow,
Nellikuppam Main Road,
Cuddalore – 1.

5.The President,
Panchayat Union,
Sedapalayam, Cuddalore Taluk.



C.R.P. No. 1092 of 2019

6.Vijayalakshmi

7.Valarmathi

8.K. Palani

... Respondents

Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order dated 22.06.2018 in O.S.No.84 of 2014 passed by the II Additional Subordinate Judge, Cuddalore and permit the petitioner to pay the Court fee for amended prayer.

For Petitioner : Mr. R.R. Pradheep
for Mr. S. Sethuraman

For Respondents : Mr. E. Ashok Kumar, for R1
for Mr. D. Baskar
Mr. T. Arun Kumar, for R2 & R3
Additional Government Pleader
Mr. M.R. Gokulakrishnan, for R4 & R5

ORDER

This Civil Revision Petition has been filed against the order dated 22.06.2018 in O.S. No. 84 of 2014 on the file of the II Additional Subordinate Judge, Cuddalore.

2. The petitioner is the plaintiff in the said suit. He filed the suit for the relief of declaration of title and permanent injunction. Subsequently, he filed an application in I.A. No. 370 of 2013 in O.S. No. 84 of 2014 seeking



C.R.P. No. 1092 of 2019

amendment of the plaint to include the relief of mandatory injunction to demolish the building in the suit property. The said application was allowed on 03.03.2018 and suit was posted to 16.03.2018 for filing amended plaint copy and to carry out the amendment and thereafter, it is adjourned to 15.03.2018, 26.03.2018 and 12.04.2018 and on 18.04.2018, the amendment was carried out and the same was adjourned to 27.04.2018 for payment of additional Court fee and additional written statement and again it was adjourned to 18.06.2018 for payment of additional Court fee, and on that day, there was no representation for the plaintiff and the additional Court fee was not paid inspite of the time extended by the Court below. Under those circumstances, the Court below by following the provisions contained under Order VII Rule 11(c) of CPC rejected the plaint. Aggrieved by the same, the present Civil Revision Petition has been filed.

3. Learned counsel for the petitioner submits that the trial Court ought to have extended the time for payment of additional Court fee instead of rejecting the plaint under Order VII Rule 11(c) of CPC. Learned counsel further contends that the Court below failed to appreciate Order VII Rule



C.R.P. No. 1092 of 2019

11(c) of CPC can be invoked only when the plaint is written upon paper insufficiently stamped and the plaintiff, on being required by Court to supply requisite stamp paper. He submits that in the present case, the plaint is properly stamped whereas consequent to the amendment of the plaint, the Court fee is not paid. As such, he contends that under proviso of Order VII Rule 11(c) of CPC cannot be invoked to reject the plaint.

4. Learned counsel further submits that in the grounds of revision that due to the mistake of the counsel in the Court below, the additional Court fee of Rs.75.50/- has not been paid. But subsequently, the petitioner came to know that due to the sudden demise of one of the family member of the counsel, he could not attend the Court on that particular day and inadvertently, he failed to pay the Court fee though he received proper instructions from his client. Learned counsel for the petitioner finally submits that along with the plaint, petitioner paid Court fee of Rs.24,676/- and the additional Court fee of Rs.75.50/- is only has to pay. He requested the Court to consider the situation for not paying the additional Court fee and requested to grant one more opportunity to pay the additional Court fee.



C.R.P. No. 1092 of 2019

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5. Learned counsel appearing for the respondents submit that the Court below granted sufficient time to pay the additional Court fee and even after extending the time also the petitioner failed to pay the same, and as such, the Court below rightly rejected the plaint by invoking Order VII Rule 11(c) of CPC and as such, interference of this Court is not required and sought to dismiss the Civil Revision Petition.

6. Having heard the learned counsel appearing on either side and on careful perusal of the order dated 22.06.2018, passed by the Court below in rejecting the plaint, this Court intends to look into the proviso of Order VII Rule 11(c) of CPC as extracted herein under : -

“Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-papers, as the case may be within the time fixed by the Court and that refusal to extend such time would cause grave



C.R.P. No. 1092 of 2019

injustice to the plaintiff.”

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7. On bare reading of the said proviso, it appears that if the Court is satisfied that the plaintiff was prevented by any cause of an exceptional nature, by recording the reasons and permit the plaintiff for supplying the requisite stamp papers.

8. In this case, it is contention of the petitioner that due to the reason that the learned counsel appearing for the petitioner in the Court below is not in a position to attend the Court proceedings during the particular time due to the sudden demise of one of the family member of that counsel.

9. Considering the said fact, in the considered opinion of this Court, it is appropriate and reasonable to give one more opportunity to the petitioner to pay the additional Court fee in the interest of justice. By permitting the petitioner to pay the additional Court fee of Rs.75.50/-, no prejudice will be caused to the respondents. The respondents who are the defendants in the suit are having ample opportunity to put forth their case before the Court



C.R.P. No. 1092 of 2019

below by producing proper evidence in their favour.

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10. For the reasons stated above, the order dated 22.06.2018 in O.S. No. 84 of 2014 is hereby set aside and the petitioner is permitted to pay the additional Court fee of Rs.75.50/- on or before 5th of this month. If the additional Court fee is paid by the petitioner within the time stipulated herein, the II Additional Subordinate Judge, Cuddalore shall take into the plaint on record for further proceedings.

11. Accordingly, the Civil Revision Petition is disposed of.

12. There shall be no order as to costs.

02.07.2024

Index : Yes / No

Neutral Citation : Yes / No

AT

Note: Registry shall dispatch this order by tomorrow.

7/8



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C.R.P. No. 1092 of 2019

BATTU DEVANAND, J.

AT

To

- 1.The II Additional Subordinate Judge, Cuddalore.
- 2.The Revenue Divisional Officer,
Having Office at Sub-Jail Road,
Cuddalore – 1.
- 3.The Thasildar,
Having Office at Beach Road,
Cuddalore – 1.

C.R.P. No. 1092 of 2019

02.07.2024