



C.R.P(MD)No.89 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **10.04.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.89 of 2018
and
C.M.P(MD)No.366 of 2018

Prakasam

... Petitioner/Respondent/
Plaintiff

Vs.

A.John Kennedy

... Respondent/Petitioner
2nd Defendant

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records in I.A.No.49 of 2017 in O.S.No.312 of 2015, dated 23.10.2017 on the file of the Principal District Munsif, Tiruchirapalli and set aside the same.

For Petitioner : Mr.A.Haja Mohideen

For Respondent : No appearance



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C.R.P(MD)No.89 of 2018

ORDER

The instant revision petition has been filed by the plaintiff in O.S.No.312 of 2015 on the file of the Principal District Munsif Court, Tiruchirappalli, challenging an order, wherein the plaintiff has been directed to value and pay Court fee as per Section 40 of the Tamil Nadu Court Fees and Suit Valuation Act, 1955.

2. The plaintiff in the suit had sought for a declaration that two settlement deeds, dated 20.03.2009 and 08.10.2012 executed by her in favour of her son are null and void and for a mandatory injunction, directing the registration officials to cancel the above said documents. A perusal of the plaint indicates that, Court fee has been paid under Section 25 (d) of the Tamil Nadu Court Fees Act.

3. The second defendant in the suit had filed I.A.No.49 of 2017 to direct the plaintiff to pay necessary Court fee under Section 40 of the Tamil Nadu Court Fees and Suit Valuation Act. According to the second



C.R.P(MD)No.89 of 2018

defendant, the plaintiff being a party to these documents, she cannot value the prayer for declaration under Section 25 (d) of the Tamil Nadu Court Fees Act.

4. The plaintiff had filed a counter contending that the said document has been obtained by undue influence and coercion and therefore, the said document is not valid in the eye of law. Therefore, the payment of Court Fee under Section 25 (d) of the Court Fees Act is valid.

5. The Trial Court after considering the submissions made on either side has found that the plaintiff being a party to these documents, she is liable to pay Court Fee under Section 40 of the Tamil Nadu Court Fees and Suit Valuation Act. Challenging the same, the present revision petition has been filed.

6. According to the learned Counsel appearing for the revision petitioner, it is the specific case of the plaintiff that taking advantage of her old age, she was cheated by her sons and convinced by them to sign



C.R.P(MD)No.89 of 2018

some documents relating to the suit schedule property by giving false statements. In such an event, the question of payment of Court Fee under Section 40 of the Act would not arise. He further contended that the Trial Court in paragraph No.10 of the order, has arrived at a finding that, the plaintiff had executed the document after having full knowledge about the contents of the same. Such a finding, would affect her rights during Trial. Hence, he prayed for allowing the revision petition.

7. Though the respondent has been served, there is no representation either in person or through Counsel.

8. A perusal of the plaint prayer and the documents sought to be cancelled clearly indicate that, the plaintiff is a party to both these documents. It is her allegation that the said documents have been obtained under undue influence and coercion. Therefore, being a party to the said documents, she is under a legal obligation, to pay Court Fee, under Section 40 of the Court Fees Act. The allegation of the plaintiff cannot be a ground for paying Court Fee under Section 25 (d) of the



C.R.P(MD)No.89 of 2018

Court Fees Act. Therefore, this Court is of the considered opinion that the order passed by the Trial Court directing the plaintiff to pay Court Fee under Section 40 of the Tamil Nadu Court Fees and Suit Valuation Act is valid and it does not call for any interference. However, the findings of the Trial Court in paragraph No.10 of the order that, the said documents have been executed by the plaintiff with full knowledge about the contents of the document is not relevant for the purpose of deciding the said application. Those findings are hereby set aside. The plaintiff is at liberty to let in evidence with regard to the circumstances under which she had executed the said document.

9. With the above said observation, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

10.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

5/7



C.R.P(MD)No.89 of 2018

To

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- 1.The Principal District Munsif,
Tiruchirapalli.
- 2.The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P(MD)No.89 of 2018

R.VIJAYAKUMAR, J.

BTR

Order made in
C.R.P(MD)No.89 of 2018

10.04.2024