



C.R.P.(MD).No.1827 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **23.04.2024**

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(MD)No.1827 of 2019

and

C.M.P(MD) No.9416 of 2019

Thangarasu

... Petitioner/Petitioner
1st Defendant

Vs.

1. Govindammal

2. Samiyammal

... Respondents/Respondents
Plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order of rejection, dated 23.01.2019 in C.F.R.No.476 of 2019 in O.S.No.189 of 2013 on the file of the District Munsif Court, Keeranur.

For Petitioner : Mr.R.Balakrishnan
for Mr.Poornachandran

For Respondents : No appearance



C.R.P.(MD).No.1827 of 2019

WEB COPY

ORDER

The present Civil Revision Petition has been filed by the 1st defendant in O.S.No.189 of 2013, on the file of the District Munsif Court, Keeranur, challenging the order, wherein the request of the revision petitioner for extension of time for payment of Court fee for raising the plea in the written statement was rejected.

2. The respondents herein have filed the suit for the relief of partition and separate possession. The revision petitioner filed a written statement in March, 2014 and the revision petitioner has filed his additional written statement on 20.09.2018 for raising the plea of adverse possession. The Court granted permission to the defendants to file an additional written statement with a condition that, they should deposit the Court fee as contemplated under Section 25 (CC) of Tamil Nadu Court Fees Act, on or before 09.11.2018. Since the petitioner has not deposited the Court fee, he filed an application in I.A.No.894 of 2018, under Section 149 of C.P.C., seeking extension of time. The time was extended till 30.11.2018. Even on the said date, the defendant had not paid the Court fee. In view of the above said fact, the Trial Court had



C.R.P.(MD).No.1827 of 2019

WEB COPY

rejected the plea of adverse possession. Thereafter, the first defendant had filed C.F.R.No.476 of 2019, seeking further extension of time for payment of Court fee on the ground that, by mistake, Court fee has not been paid in time. The second extension of time application was rejected on the ground that, already time was granted and due to non-payment of Court fee, the plea of adverse possession is also rejected. Challenging the said order, the present revision petition has been filed.

3. According to the learned Counsel appearing for the revision petitioner, he was not properly informed about the payment of Court fee. Therefore, he was unable to pay the Court fee in time. Now, the suit is posted for evidence of P.W.3 on 29.04.2024. Unless, the first defendant is permitted to pay the Court fee, he could not be in a position to raise the plea of adverse possession. Hence, he prayed for allowing this Civil Revision Petition.

4. Per contra, the learned Counsel appearing for the respondents strongly objected and contended that, twice extension of time was granted to the first defendant for payment of Court fee and he has not utilized the said opportunity. Only to drag on the proceedings, the present application has been



C.R.P.(MD).No.1827 of 2019

filed. That apart, the trial has begun and P.W.3 is in the box. At this belated stage, the request for payment of Court fee for including the prayer of adverse possession cannot be taken into consideration.

5. I have carefully considered the submissions made on the side of the petitioner and perused the materials available on record.

6. The first defendant had raised the plea of adverse possession for the first time in the additional written statement. Though, twice time was granted to the first defendant for payment of Court fee, he has not utilized the said opportunity and the Trial Court has proceeded to reject the plea of adverse possession due to non payment of Court Fee under Order 7 Rule 11 (b) of C.P.C. Now, P.W.3 is in the box. No prejudice would be caused to the plaintiffs in permitting the first defendant to pay the Court fee for raising the plea of adverse possession.

7. In view of the above said facts, this Civil Revision Petition stands allowed, on condition that the first defendant should pay the appropriate Court fee within a period of 10 days from the date of receipt of a copy of this



C.R.P.(MD).No.1827 of 2019

order. In case, if the Court fee is not paid within the stipulated time, this Civil Revision Petition shall stand dismissed automatically, without any further reference to this Court. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

23.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

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



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C.R.P.(MD).No.1827 of 2019

R.VIJAYAKUMAR, J.

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C.R.P.(MD)No.1827 of 2019

23.04.2024



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C.R.P.(MD).No.1827 of 2019