

(1923) 04 MAD CK 0068
In the Madras High Court

Balaguru Naidu by his authorized agent Chidambaram Chetti	APPELLANT
Vs	
Muthuratnam Aiyar and Others	RESPONDENT

Date of Decision : 11-04-1923

Acts Referred:

Citation : AIR 1924 Mad 118 : (1923) 18 LW 451 : (1924) 46 MLJ 254

Hon'ble Judges : Krishnan, J

Bench : Division Bench

Judgement

Krishnan, J.—A pauper application is really a combination of a plaint and an application to excuse the payment of Court-fee on it. When the petition is dismissed whether on the ground that the petitioner is not a pauper or on the ground that a dismissal of a similar previous petition bars the present petition it is the application that fails but the plaint remains and may be validated by payment of Court-fees within a time to be fixed by Court if the Court in the exercise of its discretion is prepared to grant time. The District Munsif is not right in thinking that there should be a competent application to sue in forma pauperis on record before time can be given to pay Court-fees on the plaint filed at the same time. No case has laid that down. The case will therefore go back to the District Munsif to decide whether he considers there is proper ground to grant plaintiff time to pay the Court-fees till the date when he actually paid it and if he holds in favour of the plaintiff on the point, the plaintiff will have to be taken as filed on the date it was originally put into Court along with pauper petition. See *Stuart Skinner alias Nawab Mira v. William Orde* ILR (1879) A 241. The question is one for the exercise of the Munsif's discretion on the facts of the case.

2. The order of the lower Court is set aside and the case remanded to it for a fresh disposal on the light of the above.

3. Costs of this Civil Revision Petition and of the proceedings in the lower Court will abide and follow the result.