

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.07.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.2794 of 2015 &
M.P.No.1 of 2015

1.S.Sujatha
2.J.Tarun Kumar

... Petitioners

v.

V.Rukmani

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 06.04.2015 made in I.A.No.677 of 2015 in O.S.No.6352 of 2013 on the file of XVIII Asst. City Civil Court, Chennai, Chennai District.

For Petitioners : Mr.C.Venkatesan

For Respondent : Mr.R.Thiru Gnanam
for Caveator

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O R D E R

Challenging the fair and final order passed in I.A.No.677 of 2015 in O.S.No.6352 of 2013 on the file of XVIII Assistant Judge, City Civil Court, Chennai, the defendants have filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.6352 of 2013 for delivery of possession and for damages towards use and occupation. The defendants filed their written statement and are contesting the suit. In the year 2015, the defendants filed an out application in I.A.No.677 of 2015 under Order VII, Rule 11 of CPC to reject the plaint.

3. In the affidavit filed in support of the application, the defendants have stated that the plaintiff has not valued the suit property and paid proper court fee. On this ground, the defendants sought for rejection of the plaint. The petition filed by the defendants was contested by the plaintiff.

4. The Trial Court, after taking into consideration the case of both the parties, dismissed the application finding that the Trial of the suit has already commenced and that the issue with regard to the valuation of the property can be decided along with the trial.

5. On a perusal of the materials available on record that the suit was filed in the year 2013 and the present application under Order VII, Rule 11 of CPC was filed by the defendants only in the year 2015, that too, after the commencement of the trial, when the Trial Court had already commenced the trial, I do not find any reason to reject the plaint. That apart, the Trial Court also observed that the issue with regard to the payment of court fee can be decided in the suit after the completion of the trial. In these circumstances, the Trial Court has rightly dismissed the application.

7. In view of the above, I do not find any error or irregularity in the order passed by the Trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Since the suit is of the year 2013, I direct the XVIII Assistant Judge, City Civil Court, Chennai, to dispose of the suit in O.S.No.6352 of 2013 on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : No
Internet : Yes

20.07.2015

Rj

M. DURAISWAMY,J.,

Rj

To

The XVIII Assistant Judge,
City Civil Court,
Chennai,

C.R.P.(PD)No.2794 of 2015 &
M.P.No.1 of 2015

20.07.2015