

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2015

CORAM:

THE HON'BLE MR.JUSTICE D.HARIPARANTHAMAN

CRP (PD) No.3402 of 2015

and

M.P.No.1 of 2015

S.Rama Ashokan Petitioner/2nd Defendant

Vs.

1. P.Kalaiselvi
2. S.Kanchana
3. B.Arivukodi
4. P.Sathiya
5. Nishandi
6. Nevadha
7. Chandrammal
8. Alli Rani

.... REspondents 1 to 6/Plaintiff

.... Respondents 7 & 8/Defendants 1 & 3

PRAYER : Petition filed under Article 227 of Constitution of India, praying to set aside the order and decree dated 18.04.2015 passed in I.A.No.220 of 2015 in O.S.No.120 of 2013 on the file of the Additional District Munsif, Vaniyambadi and to allow the Civil Revision Petition.

For Petitioner : M/s.K.Srinivasan

ORDER

The revision petitioner herein is the second defendant in the suit in O.S.No.120 of 2013 on the file of the Additional District Munsif Court, Vaniyambadi. It is a partition suit.

2. An application in I.A.No.220 of 2015 in O.S.No.120 of 2013 was filed by the second defendant/revision petitioner herein, before the Additional District Munsif, Vaniyambadi, under Order 7 Rule 11 of C.P.C. for rejection of plaint on the ground that since the suit property was undervalued, the District Munsif Court has no jurisdiction. The said application was rejected by the Trial Court, by an order dated 18.04.2015.

3. Aggrieved against the aforesaid order, the present Civil Revision Petition has been filed by the revision petitioner.

4. Heard the learned counsel appearing for the revision petitioner.

5. According to the learned counsel appearing for the revision petitioner, the Trial Court has committed an error in taking the valuation of the suit property based on the kist and the Trial Court held that there is nothing wrong in taking the kist as the basis for determination of the Court Fee.

6. It is the case of the revision petitioner that the suit property should be valued as house site and the valuation done under Section 37(1) of the Tamil Nadu Court Fee and Suit Valuation Act, 1955 based on the kist is not correct.

7. The aforesaid plea made by the revision petitioner in I.A.No.220 of 2015 in O.S.No.120 of 2013 under Order VII Rule 11 of CPC was rejected by the Trial Court. For rejecting the plea of the revision petitioner, the Trial Court placed its reliance on the averments made in the plaint. The plaintiff has valued the property as agricultural land and the Court Fee was paid based on the kist value under Section 37(1) of the Act.

8. The Trial Court found that there is nothing wrong in the same.

9. It is well-settled that the application filed under Order VII Rule 11 of CPC seeking to reject the plaint shall be decided based on the averments in the pleadings.

10. Since the order of the Trial Court is based on the pleadings, I do not find any infirmity in the order, that is questioned before this Court.

11. Accordingly, this petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

The Additional District Munsif,
Vaniyambadi.

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