

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.R.SHIVAKUMAR

C.R.P.PD.Nos.132 and 133 of 2016
and C.M.P.No.685 of 2016

1. Manoghar
2. P.Prabhakar
Both sons of D.P.Selvam,
Both are residing at
No.119, Habibullah Road,
T.Nagar, Chennai 600 017 ... Petitioners

Versus

1. K.Balaji
S/o.Late R.Kothandaraman
No.27/3, Kavarai Street,
Saidapet, Chennai 600 015
2. A.R.Parthasarathy
S/o.Late V.Ramachandran
No.23/11, Kavarai Street,
Saidapet, Chennai 600 015
3. P.Jayakumar
No.K16, MGR Nagar, 2nd Street,
Vijaya Nagar, Velachery,
Chennai 600 042
4. Tahsildar
100 Feet Road,
Mambalam-Guindy Taluk,
Chennai 600 083. .. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decreetal orders of the XVI Assistant Judge, City Civil Court, Chennai dated 19.08.2015 made in I.A.No.15437 of 2014 in O.S.No.3906 of 2013.

For Petitioners : Mr.S.Rajendrakumar

ORDER

The arguments advanced by Mr.S.Rajendrakumar, learned counsel for the petitioners are heard. The materials are perused.

2. The defendants in the original suit O.S.No.3906 of 2013, pending on the file of XVI Assistant Judge, City Civil Court, Chennai are the petitioners in the present revision.

3. The suit was filed by the respondents 1 and 2 herein against the petitioners and respondents 3 and 4 herein for a declaration of their title and for recovery of possession. The petitioners herein, on appearance, filed an application I.A.No.15437 of 2011 under Order VII Rule 11 of the code of Civil Civil Procedure praying for an order rejecting the plaint on the ground that the relief has been undervalued. The learned trial Judge, after hearing, dismissed the said petition by an order dated 19.08.2015. The said

order is challenged by the petitioners herein in C.R.P.No.132 of 2016 by invoking the power of superintendence of this Court over the Subordinate Courts under Article 227 of the Constitution of India. C.R.P.No.133 of 2016 has been filed against the order rejecting the memo of the revision petitioner filed along with order VII Rule 11 petition.

4. The contention of the learned counsel for the petitioners is that the suit having been filed for the relief of declaration and recovery of possession, the value of the property ought to have been noted equivalent to the market value of the property and that the fixation of the value by the plaintiffs themselves at a notional value of Rs.1,00,000/- is not proper and that on the said ground, the petitioners sought the relief for rejection of the plaint. In support of his contention, the learned counsel for the petitioners submits that the very document under which the plaintiffs purchased the suit property recite the value of the property as Rs.4,20,000/- and that the undervaluation of the relief in the plaint is quite obvious. Of course, the contention of the petitioners is that there was undervaluation of the relief claimed in the plaint which can be *prima facie* sustained, but the mere fact that the relief has been undervalued is not one of the

grounds on which the plaint can be rejected at once. Apart from the undervaluation, something more is needed for rejection of the plaint.

5. Order VII Rule 11 Sub Clause (b) contemplates rejection of plaint only when the plaintiffs fail to amend the valuation when directed by the Court to do so. Unless the petitioners raised it as an issue, may be as a preliminary issue and get a decision regarding the correctness or otherwise of the valuation, the prayer for rejection of the plaint cannot be sustained. Similar is the case of non payment of Court fee or payment of lesser Court fee, which is covered by Sub Clause (c) of Rule 11 under Order VII CPC. Though the reason assigned by the trial Court may not be free from ambiguity, the finding of the trial Court that the petition for rejection of the plaint on the mere ground of undervaluation, without inviting a finding regarding valuation, cannot be sustained has got to be confirmed as the final order does not warrant any interference. If the order of the trial Court can be sustained by the reasons assigned by this Court, no interference with the order of the trial Court can be made and the reasons are stated supra.

6. Along with the petition, the petitioners also filed a memo enclosing the certified copies of sale deeds under which the suit property was purchased in two parts by the plaintiffs. The learned trial Judge besides dismissing the petition, rejected the memo. Hence Civil Revision Petition No.132 of 2016 has been filed against the order dismissing the application under Order VII Rule 11 of Civil Procedure Code and C.R.P.No.133 of 2016 has been filed against the rejection of the memo.

7. Since the memo has been filed along with the petition under order VII Rule 11 CPC which cannot be sustained, the rejection of the memo cannot be found fault with. Hence, both the revisions are bound to fail and they are bound to be dismissed at the stage of admission itself.

8. Accordingly, the Civil Revision Petitions are dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

17.02.2016

Index: Yes/No
Internet: Yes/No

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P.R.SHIVAKUMAR.J

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To

The XVI Assistant Judge,
City Civil Court, Chennai

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