

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2016

CORAM

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(PD).No.2899 of 2016
and C.M.P.No.14770 of 2016

1.Muniyammal

2.S.Gopal

... Petitioners

Vs.

1.Rajamani

2.Natarajan

3.Bhanumathi

4.Murugesan

5.Thirunavukkarasu

... Respondents

Civil Revision Petition under Article 227 of the Constitution of India against the fair order and decretal order dated 06.06.2016 made in I.A.No.92 of 2016 in O.S.No.38 of 2013 on the file of the Subordinate Judge, Rasipuram.

For Petitioner : Ms.G.Sumitra

ORDER

Challenging the fair and final order passed in I.A.No.92 of 2016 in O.S.No.38 of 2013 on the file of the Subordinate Judge, Rasipuram, the defendants have filed the above Civil Revision Petition.

2.The plaintiffs filed the suit in O.S.No.38 of 2013 for declaration and

recovery of possession. The defendants filed their written statement and were contesting the suit.

3.The suit was filed in the year 2013. In the year 2016, the defendants filed an application in I.A.No.92 of 2016 to reject the plaint under Order 7 Rule 11 of the Civil Procedure Code. The main contention raised in the application in I.A.No.92 of 2016 is with regard to the limitation. The application filed by the defendants under Order 7 Rule 11 of the Civil Procedure Code was contested by the plaintiffs.

4.The trial Court, taking into consideration the case of both parties, dismissed the application finding that the issue with regard to limitation is a mixed question of fact and law and the same can be decided only after trial.

5.The learned counsel for the petitioners submitted that the pleadings have completed and the suit has not yet been taken up for trial.

6.In these circumstances, I do not find any reason to interfere with the order passed by the trial Court. The issue raised by the petitioners with regard to the limitation can be decided in the main suit itself.

7.In these circumstances, while confirming the fair and decreetal order in I.A.No.92 of 2016, I direct the Subordinate Judge, Rasipuram to dispose of the suit in O.S.No.38 of 2013, on merits and in accordance with law, without being influenced by any of the observations given in I.A.No.92 of 2016.

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

Index : No
Internet : Yes
vsi2/va

19.09.2016

To

The Subordinate Judge,
Rasipuram

M.DURAIWAMY,J.

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