

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.12.2016

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

C.R.P. (PD) .No.4571 of 2013

and

M.P.No.1 of 2013

1. Seethaiammal

2. Ranganayaki

... Petitioners

- Vs -

1.Malarkodi

2.Poornima

3.Priyatharshini

4. Gunaseelan

... Respondents

**Prayer** : Civil Revision Petition is filed under Article 227 of the Constitution of India against the Fair and Decreetal Order dated 14.09.2011 and made in I.A.1144 of 2011 in O.S.No.132 of 2008 on the file of the District Munsif Court, Attur, Salem.

|                 |   |                     |
|-----------------|---|---------------------|
| For Petitioners | : | Mr. S.Kamadevan     |
| For Respondents | : | Mr. R.Dhinesh Kumar |

**O R D E R**

The fair and decreetal order dated 14.09.2011 and made in the application in I.A.No.1144 of 2011 are under challenge in this revision.

2. The revision petitioners are the defendants in the suit in O.S.No.132 of 2008 whereas the respondents are plaintiffs.

3. It is manifested from the records that the respondents 1 to 4 have filed the above suit against the revision petitioners seeking to declare the sale deed dated 13.02.2008 and the rectification deed dated 01.04.2008 on the file of Sub-Registrar Office, Gangavalli are null and void and also for the consequential relief of permanent injunction.

4. This suit was contested by the revision petitioners and thereafter, they came forward with an application in I.A.No.1144 of 2011 under Order 7 Rule 11 of the C.P.C. to reject the plaint for the reasons stated therein.

5. This petition was rejected at the threshold without assigning any reason. Therefore, the defendants stands before this Court with this revision petition.

6. Heard Mr.S.Kamadevan, learned counsel for the petitioners and Mr.R.Dhinesh Kumar, learned counsel for the respondents.

7. The order of the learned Trial Judge is extracted as under:-

***'Petition filed U/O 7 Rule 11(a)(b) Sec.151 C.P.C. to pass an order to reject the plaint.***

***Since the plaint already admitted as duly stamped order VII Rule 11(b) could not be invoked. The Plaint in its entirety reveals cause of action. Hence, this application is rejected.'***

8. The trial court, even for the purpose of rejecting the petition in limine, should have assigned valid reasons; but without recording any reason for the rejection of the petition filed by the petitioners/defendants the trial court had simply rejected the petition with an observation that Order VII Rule 11(b) could not be invoked as the plaint is already admitted and duly stamped.

9. As suggested by Mr.S.Kamadevan, learned counsel for the petitioners this Court finds that the application in I.A.No.1144 of 2011 may be remitted back to the file of the trial court with a direction to dispose the same on merits, after obtaining objection from the other side.

10. Accordingly, this Revision Petition is allowed and the impugned order dated 14.09.2011 is set aside and the application in I.A.No.1144 of 2011 is remitted back to the file of the trial court with a direction that the learned trial Judge shall dispose the above said application on merits, after obtaining objection from the other side within a period of one month without loss of further time. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

02.12.2016

Index: Yes / No  
Internet:Yes / No  
ssn

To

The District Munsif Court,  
Attur, Salem.

**T.MATHIVANAN, J. ,**

ssn

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