

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (PD) No.1192 of 2017 &
C.M.P.No.5682 of 2017

Jayamurugan

... Petitioner

Vs.

Jayammal

... Respondent

Prayer: Revision filed under Article 227 of the Constitution of India against the fair and decreetal order passed in I.A.No.870 of 2013 in O.S.No.197 of 2011 dated 31.08.2016 on the file of the District Munsif Court at Rasipuram.

For Petitioner : Mr.C.Girishbabu

ORDER

The petitioner is the defendant and the respondent is the plaintiff. The respondent has filed the suit in O.S.No.197 of 2011 on the file of the District Munsif Court, Rasipuram against the petitioner/defendant for partition and separate possession.

2.The petitioner has filed the written statement on 30.06.2014 in the suit. The trial commenced and the respondent

examined in chief and the suit was posted for cross examination of PW1 by the petitioner's counsel. At this stage, the petitioner/defendant filed I.A.No.870 pf 2015 under Order 7 Rule 11 of the Code of Civil Procedure seeking for rejecting the plaint.

3.According to the petitioner/defendant, the respondent has not valued the suit property properly. The trial court has not framed any issue with respect to the valuation of the suit property. At the time of cross examination of PW1, he admitted that the value of the suit property is more than Rs.10 lakhs. The respondent/plaintiff has wrongly valued the suit property and she has not paid proper court fee and there is no pecuniary jurisdiction to try the suit.

4.The respondent has filed the counter and submitted that the suit was filed in the year 2011 and the petitioner filed the written statement in the year 2014 raising vague plea of defence and he has not specifically stated the value of the suit property in his written statement. The respondent has mentioned the value of the suit property at the time of filing of the suit. PW1, in her cross examination in the year 2015, has stated that approximately the

value of the suit property is more than Rs.10 lakhs. The petitioner/defendant has filed the interlocutory application in I.A.No.870 of 2015 only to stall the proceedings.

5.The trial Court, considering the submissions of both sides, affidavit and counter affidavit and materials available on record, dismissed the interlocutory application holding that the respondent has stated in her cross examination that the value of the suit property is more than Rs.10 lakhs and on the date of cross examination, the market value of the property is Rs.10 lakhs and also held that the market value will be decided based on the willing purchaser and willing seller and the market value stated by the respondent during her cross examination cannot be considered as valuation of the suit property as on the date of presentation of the plaint. Further, as per Section 7 of Court Fee Act, the value of the property shall be determined as on the date of presentation of the suit.

6.As against the order of dismissal passed by the trial Court, the present revision is filed.

7. Heard the learned counsel for the petitioner and perused the materials available on record.

8. It is not in dispute that the respondent has filed the suit seeking for partition and separate possession in the year 2011. According to the respondent, the value of the first item of the suit property is Rs.20,043/- and the second item of the suit property is Rs.40/- and total value of the suit property is Rs.20,083/- and she has paid a sum of Rs.100/- as Court Fee under Section 37(2) of Tamil Nadu Court Fee Act. Learned counsel for the petitioner contended that the respondent/PW1 in her cross examination, has admitted that the value of the suit property is more than Rs.10 lakhs and that the trial Court has no pecuniary jurisdiction to try the suit. The Trial Court has considered the fact and held that PW1, in her cross examination has stated that on the date of cross examination, the value of the property is more than Rs.10 lakhs and as per Section 7 of the Court Fee Act, the value of the property shall be determined only on the date of presentation of the suit. Therefore, there is no illegality or irregularity warranting interference by this Court with the order dated 31.08.2016 passed

by the District Munsif Court, Rasipuram.

9. Accordingly, the Civil Revision Petition stands dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is dismissed.

11.04.2017

Index : Yes/No

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To

The District Munsif Court,

Rasipuram.

V.M.VELUMANI,J

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