

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1846 of 2017
& C.M.P.No.8858 of 2017

Suresh Kumar

.. Petitioner

Vs.

Usha

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and final orders dated 24.01.2017 passed in I.A.No.74 of 2015 in O.S.No.174 of 2012 on the file of the learned Additional District Judge at Namakkal.

For Petitioner : Mr.R.Nalliyappan

ORDER

This Civil Revision Petition has been filed against the fair and final orders dated 24.01.2017 passed in I.A.No.74 of 2015 in O.S.No.174 of 2012 on the file of the learned Additional District Judge at Namakkal.

2. Petitioner is the defendant and respondent is the plaintiff in O.S.No.174 of 2012. Both petitioner and respondent are brother and sister respectively. The respondent has filed O.S.No.174 of 2012 for declaration and injunction. The petitioner filed the written statement on 21.03.2013 and is contesting the suit. Trial commenced. At that stage, petitioner filed I.A.No.74 of 2015 for permission to file additional written statement. According to the petitioner, the respondent during cross examination admitted the value of the property is Rupees one Crore. In view of the same, it is necessary for the petitioner to file additional written statement making a plea that the respondent has not properly valued the suit property and not paid the correct Court fee.

3. The respondent filed counter affidavit opposing the said application and submitted that the petitioner has already filed a memo with regard to value of the property and Court fee payable by the respondent and the same has been rejected after contest. The petitioner has not substantiated his contention by any acceptable evidence that the value of the property is Rupees One Crore. Mere admission of the respondent in the cross examination,

it cannot be held that value of the property is more than Rupees One Crore. Only to drag on the proceedings, the petitioner has filed the present application.

4. The learned Judge considering the averments made in the affidavit, counter affidavit and judgments relied on by the learned counsel for the respondent dismissed the application holding that with regard to value of the property and Court fee payable, issues must be raised in the written statement before the commencement of trial.

5. Against the order of dismissal dated 24.01.2017 made in I.A.No.74 of 2015, the present civil revision petition is filed by the petitioner.

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

7. From the records it is seen that the petitioner has not produced any material with regard to value of the suit property and mere statement of the respondent in the cross examination, the

value cannot be taken as Rupees One Crore. Memo filed by the petitioner with regard to value of the property and Court fee has been rejected, after considering the same on merits.

8. The learned Judge considering all the materials in proper perspective, dismissed the application by exercising his power conferred on him by giving cogent and valid reasons. There is no irregularity or illegality warranting interference by this Court with the order of the learned trial Judge, dated 24.01.2017.

9. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

13.06.2017

Index : Yes/No

asi/kj

To

The Additional District Judge at Namakkal.

V.M.VELUMANI, J.

asi/kj

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