

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2556 of 2014
& M.P.No.1 of 2014

1.K.Sivasamy Gounder
2.S.Rukmani
3.S.Pongumathivanan

.. Petitioners

Vs.

M.Murugeshwari

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 25.02.2014 made in I.A.No.63 of 2014 in O.S.No.58 of 2010 on the file of the Subordinate Court, Pollachi, Coimbatore.

For Petitioners : Mr.C.Veeraraghavan

For Respondent : Mr.V.Anandhamurthy

ORDER

The Civil Revision Petition is filed against the order dated 25.02.2014 made in I.A.No.63 of 2014 in O.S.No.58 of 2010 on the file of the Subordinate Court, Pollachi, Coimbatore.

2. The petitioners are the defendants and respondent is the plaintiff in O.S.No.58 of 2010 on the file of the Subordinate Court, Pollachi, Coimbatore. The respondent filed the said suit for partition. The petitioners have filed written statement on 14.07.2010 and are contesting the suit. Trial commenced and the respondent filed proof affidavit and she was cross examined on 29.10.2011. At that stage, the petitioners filed I.A.No.63 of 2014 under Order VII Rule 11 of C.P.C., for rejection of plaint on the ground that the respondent admitted in her cross examination that the value of the suit property is more than Rupees one crore and therefore, the Court has no jurisdiction to entertain the suit and prayed for rejection of the plaint.

3. The respondent filed counter affidavit and submitted that she did not admit in her cross examination that value of the suit property is more than Rupees one Crore. The question of under valuation can be decided only at the time of delivering the judgment

and prayed for dismissal of the application.

4. The learned Judge, considering the averments made in the plaint, affidavit, counter affidavit and materials available on record, dismissed the application on the ground that question of jurisdiction and value of the suit are mixed question of facts and law. The parties have to let in oral and documentary evidence in respect of all the issues and the parties cannot argue the suit only with regard to pecuniary jurisdiction of the Court. If the Court comes to the conclusion that it has no pecuniary jurisdiction, the judgment will be delivered on that issue alone.

5. Against the said order of dismissal dated 25.02.2014 made in I.A.No.63 of 2014, the present Civil Revision Petition is filed by the petitioners.

6. Heard the learned counsel for the petitioners as well as the respondent and perused the materials available on record.

7. The contention of the learned counsel appearing for the petitioners is that even according to the respondent, the value of

the property is more than Rupees one Crore and she has under valued the suit property and she has not paid the correct Court fee. In the circumstances, the plaint has to be rejected. This contention is without merits. The parties have let in evidence in respect of the issues framed in the suit.

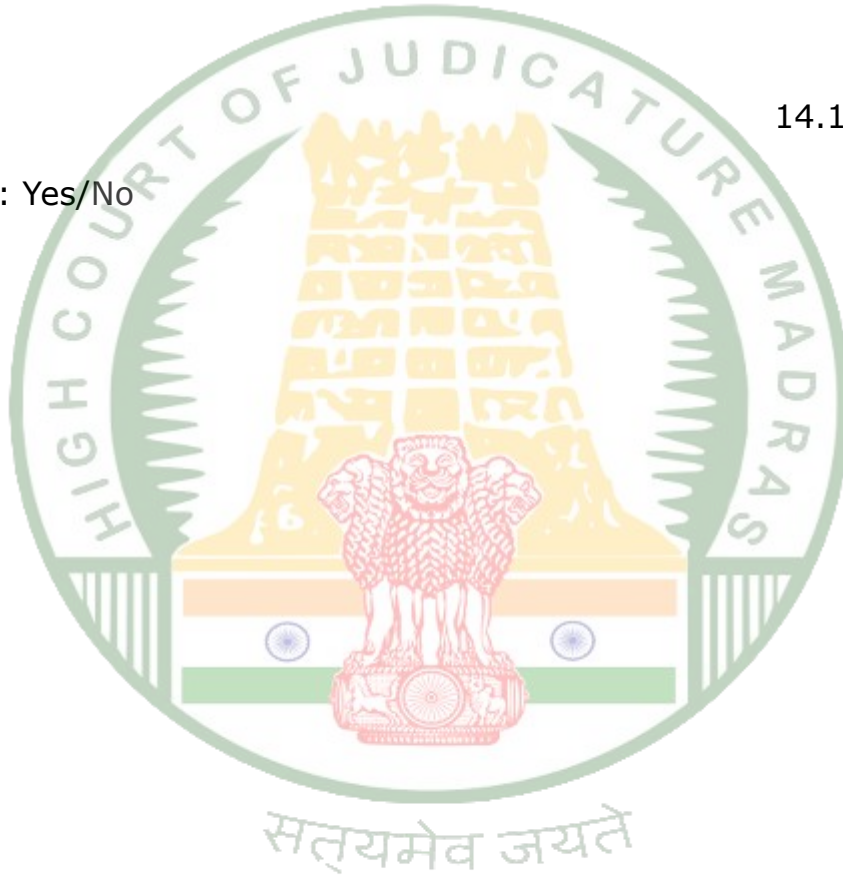
8. From the impugned order of the learned Judge, it is seen that the petitioners have come out with the present application, after conclusion of the evidence and at the time of arguments. The learned Judge dismissed the application on the ground that the question of jurisdiction is mixed question of facts and law and it can be considered along with the other issues and the decision can be arrived at the time of delivering the judgment. Further, the respondent has stated in the plaint that she is in joint possession of the suit property along with the petitioners and has paid fixed Court fee. The learned Judge has rightly held that the parties cannot argue the suit only with regard to pecuniary jurisdiction of the Court and arguments are to be advanced on all the issues and dismissed the application by giving cogent and valid reason. In the circumstances, there is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge,

dated 25.02.2014.

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

14.11.2017

Index : Yes/No
dm



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V.M.VELUMANI, J.

dm

To

The Subordinate Judge,
Pollachi, Coimbatore.



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