

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2017

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(PD) NO.3291 OF 2017
AND CMP NO.15350 OF 2017

1.B.Mahendra Kumar
2.B.Rathanlal
3.R.Sureshkumar

... Petitioners

Vs.

Rahima

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 11.04.2017 passed in I.A.No.984 of 2016 in O.S.No.182 of 2016 on the file of the District Munsif Court, Thiruvallur.

For Petitioners : Mr.P.Krishnan

WEB ORDER COPY

This Civil Revision Petition is directed against the dismissal of the interlocutory application filed to reject the plaint under Order VII Rule 11 of the Civil Procedure Code.

2. The defendants 3 to 5 are the petitioners herein. The case of the petitioners is that the suit filed by the respondent / plaintiff is without any cause of action and the cause of action arose against the defendants 4 and 5 were separate and the suit is not maintainable on joint cause of action. The valuation of the suit is also incorrect and the suit has to be rejected for improper valuation.

3. The suit filed by the respondent/plaintiff is for declaration and injunction. The case of the plaintiff is that she is the owner of the property and imposter has executed the sale deeds by playing fraud. She has neither given any power of attorney nor sold the property to the petitioners herein and the court fee was paid on notional values.

4. The entire issue revolves around the fraud played by the petitioners and the relief sought for in the application to reject the plaint can be decided only after going through the trial and it cannot be rejected at the threshold. The Trial Court has considered the matter elaborately and dismissed the interlocutory application as it does not fall within the purview of Order VII Rule 11 of the Civil Procedure Code.

5. It is well settled that the question of limitation as well as the valuation are mixed questions of law and facts. It can be decided only after evidence. The plea of playing fraud cannot be rejected at the threshold and a fair opportunity should be given to the plaintiff. Moreover, the grounds raised by the petitioners do not fall within the ambit of Order VII Rule 11 of the Civil Procedure Code and the Trial Court has answered all the issues raised by the petitioners. I do not find any infirmity in the order passed by the Trial Court and the Civil Revision Petition merits no consideration. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

11.12.2017

Index : Yes/No

Internet : Yes/No

TK

To

The District Munsif Court
Thiruvallur.

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M.GOVINDARAJ, J.

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