

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.06.2018

Coram:

THE HONOURABLE **MR.JUSTICE P.VELMURUGAN**

C.R.P.(PD)No.1764 of 2018 and
C.M.P.No.9843 of 2018

1. G.Govardhanan
2. G.Selvaraj ... Petitioners

Vs.

1. M/s.Mova Plantation Pvt. Ltd.,
rep but its Managing Director, M.Vijayakumar,
having office at
No.E-6, Ground Floor, Gemini Parsen Apartment,
No.599, Anna Salai, Chennai-600 006.
2. N.Govindasamy
3. The Tahsildhar,
Thiruvallur Taluk,
Thiruvallur.
4. The District Collector
Thiruvallur District, Thiruvallur. ... Respondents

Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order passed in I.A.No.32 of 2017 in O.S.No.47 of 2016 on the file of the Subordinate Court, Thiruvallur, dated 07.09.2017 and to set aside the same.

For Petitioners : Mr.S.Anburaja

ORDER

This civil revision petition has been filed against the order dated 07.09.2017 passed in I.A.No.32 of 2017 in O.S.No.47 of 2016 by the learned Subordinate Judge, Thiruvallur.

2 The petitioners are the 2nd and 3rd defendants, 1st respondent is the plaintiff and 2nd to 4th respondents are defendants 1, 4 & 5 respectively.

3 The 1st respondent filed a suit in O.S.No.47 of 2016 for declaration of title, in which the defendants have filed their written statement. The petitioners filed an interlocutory application in I.A.No.32 of 2017 under Order VII Rule 11 of CPC seeking rejection of plaint on the ground that the plaintiff has undervalued the suit property and not paid the correct court fee. The trial Court after giving due opportunity to both the parties and after elaborate discussion, dismissed the application by an order dated 07.09.2017 by citing various decisions of the Hon'ble Supreme Court and also this Court. Aggrieved against the same the defendants 2 & 3 have preferred the present revision petition.

4 The learned counsel appearing for the revision petitioners would submit that the 1st respondent/plaintiff has undervalued the suit property and not paid the correct court fee, where as the revision petitioners filed a suit in O.S.No.191 of 2016 arising out of the same property, they correctly valued the suit property and paid correct court fee. Hence the plaint in O.S.No.47 of 2016 has to be rejected on the sole ground itself.

5 Heard the learned counsel appearing for the revision petitioners and perused the materials available on record.

6 According to the revision petitioners, market value of the suit property is Rs.32,00,000/-, but the 1st respondent/plaintiff valued the suit property at Rs.6,24,000/- and paid court fee under Section 25(b) of the Tamil Nadu Court Fee and Suit Valuation Act as Rs.23,400/, which is not correct in law. The revision petitioners filed a suit in O.S.No.191 of 2016 arising out of the same property, whereas they correctly valued the suit property and paid court fee therein. The learned counsel for the revision petitioners contended that on the sole ground itself the plaint in O.S.No.47 of 2016 has to be rejected.

7 It is settled law that when an application under Order VII Rule 11 is made seeking rejection of plaint, on the ground of undervaluation of suit property, the Court can take it only as a preliminary issue and the same is not the ground to reject the plaint. After deciding the question of undervaluation of suit property, the Court can direct the plaintiff to pay the deficit Court fee, if the plaintiff failed to do so, then only question of rejection of plaint will arise under Order VII Rule 11 (b) and (c) of CPC. In this case, no such order has been passed by the trial Court.

8 Further, the court, at the time of deciding application under Order VII Rule 11, has to look into the averments made in the plaint and the documents annexed with and the defence taken by the defendant and documents produced by the defendant for supporting his defence need not be considered.

9 The trial Court has rightly dismissed the application by an order dated 07.09.2017 by giving valid and cogent reasons. There is no reason to interfere with same and this Court does not find any illegality or infirmity in the order of the trial Court in rejecting the application.

10 In view of the above reasons, the civil revision petition is dismissed. Consequently connected miscellaneous petition is closed.
No costs.

12.06.2018

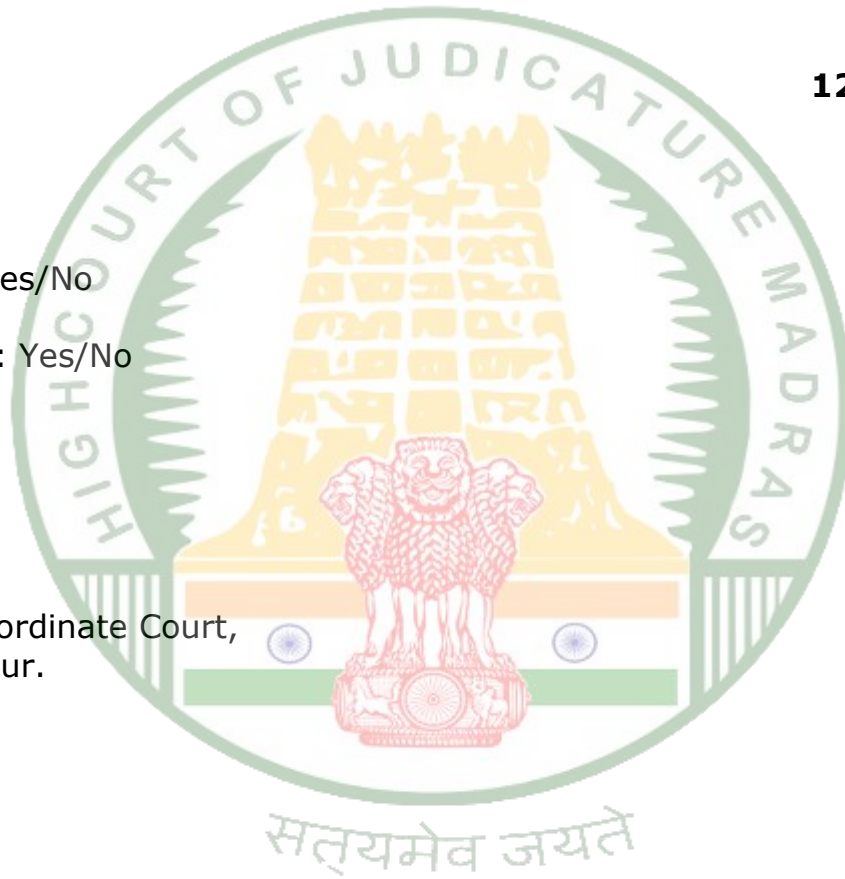
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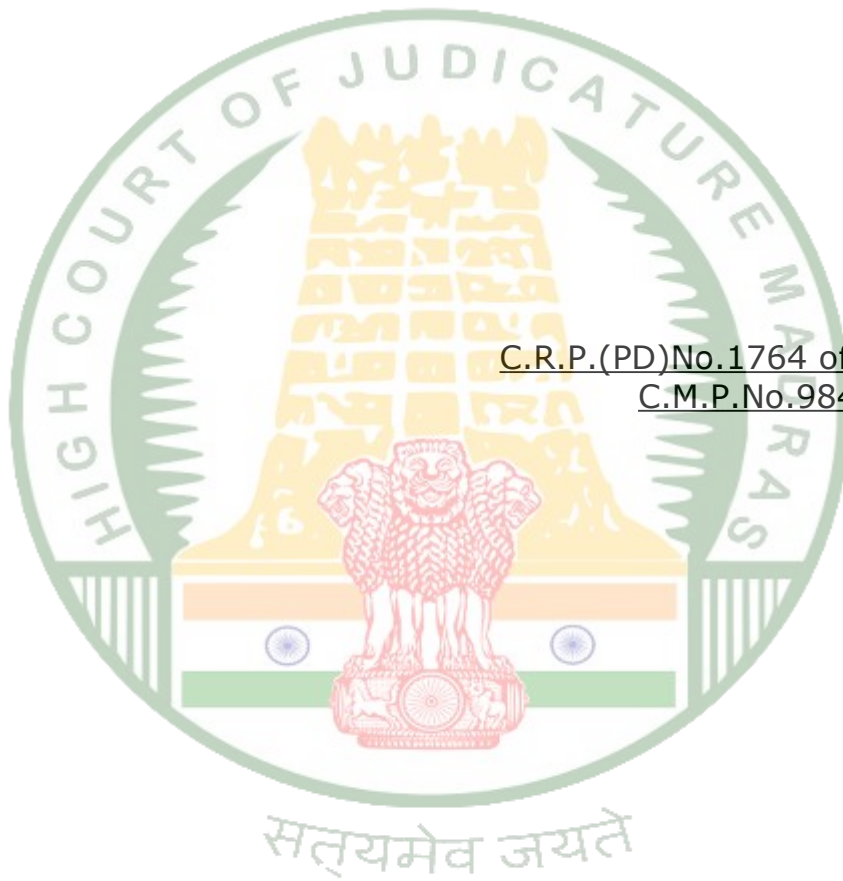
The Subordinate Court,
Thiruvallur.



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