

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.06.2018

CORAM

THE HON'BLE MR. JUSTICE **P.VELMURUGAN**

CRP.(PD).No. 3247 of 2017

V.S.Vinoth

... Petitioner

Vs.

1. A.Uma
2. A.Deepak
3. A.Gayathri Devi
4. S.Alamelu
5. S.ABirma Soundari
(Respondents 4 & 5 remained
exparte in the Court below)

... Respondents

Prayer : Civil Revision Petitions filed Under Article 227 of Constitution of India, to set aside the fair and decreetal orders passed in I.A.No.176 of 2016 in O.S.No.3907 of 2013 dated 12.07.2017 on the file of the Court of XVII Additional Judge (F.A.C.) City Civil Court, Chennai and allow the said I.A. by allowing this Civil Revision Petition.

For Petitioner : Mr.A.Muthukumar

For Respondents

For R1 to R3 : Mr.R.Abdul Mubeen

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ORDER

This Civil Revision Petition has been filed against the Order dated 12.07.2017 made in I.A.No.176 of 2016 in O.S.No.3907 of 2013 on the file of the learned XVII Additional Judge (F.A.C.), City Civil Court, Chennai.

2. The respondents 1 to 3 filed a suit against the revision petitioner for partition and also to declare the document No.944 of 2007 dated 10.04.2007 as null and void in O.S.No.3907 of 2013 before the III Fast Track City Civil Court, Chennai. During the pendency of the suit, the revision petitioner filed application in I.A.No.176 of 2016 before the trial Court under Section 12(2) of Tamilnadu Court Fees and Suit Valuation Act r/w Order 7 Rule 11 and Section 151 of CPC, to reject the plaint. After giving due opportunities on either side, the trial Court has dismissed the application by dated 12.07.2017. Feeling aggrieved against the order passed by the trial Court, the revision petitioner approached this Court by way of revision petition.

3. According to the learned counsel for the revision petitioner, the suit property is a house site and the respondents 1-3/plaintiffs have not properly valued the suit property and prima facie the suit may be rejected.

4. The learned counsel for the respondents 1-3/plaintiffs would contend that the suit property is the joint family property and they only valued the 1/4 share of the suit schedule property and paid the fixed Court fee. Therefore, the trial Court admit the case. Further the trial Court cannot reject the plaint, on this ground raised by the revision petitioner in the affidavit filed before the trial Court, whereas the trial Court has given valid reasons for its dismissal.

5. Heard the submissions made on either side and perused the records.

6. It is not in dispute that the respondents 1-3 filed a suit against the revision petition for partition and also to declare the document No.944 of 2007 dated 10.04.2007 as null and void. The said document has been mentioned in the list of documents in Sl.No.4 in the plaint. In that document, the $\frac{1}{4}$ th value of the suit property has been shown as Rs.10 lakhs. Hence, the total value of the suit property comes to Rs.40 lakhs, even at the time of execution of document. Since the document filed along with the plaint itself shows that the value of the $\frac{1}{4}$ th share is Rs.10 lakhs even in the year 2007 itself, and the suit is filed in the year 2013, the total value of the property would be more than Rs.40 lakhs, at the time of filing of the suit, the trial Court has no pecuniary jurisdiction. Therefore, the trial Court erred in dismissing the application in I.A.No.176 of 2016 in O.S.No.3907 of 2013 and order dated 12.07.2017 is liable to be set aside. Hence, the trial Court is directed to return the plaint to present the same before the competent jurisdictional Court.

7. With the above directions, the revision petition is disposed of. No costs.

12.06.2018

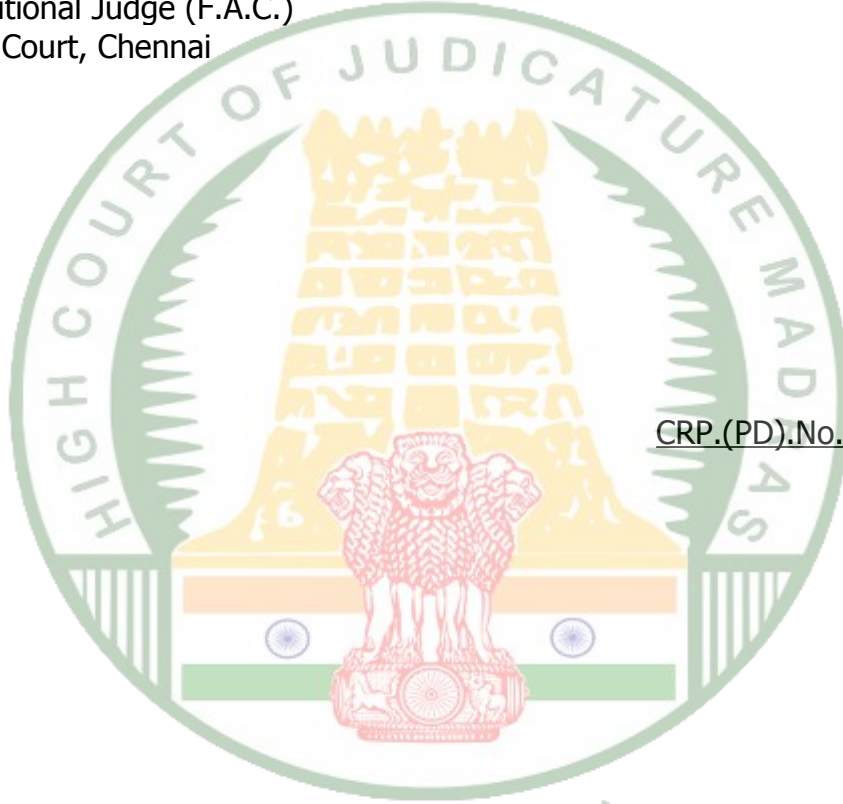
Index :Yes/No
Internet :Yes/No
Speaking order/Non-speaking order
rts

P.VELMURUGAN, J.,

rts

To

1. The Presiding Officer,
XVII Additional Judge (F.A.C.)
City Civil Court, Chennai



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12.06.2018

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