

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP(PD).No.896 of 2018
and CMP.No.4880 of 2018

1.P.Sethuraman
2.Rani

.. Petitioners

Vs

D.Srinivasan(Deceased)
Balamani(Deceased)
1.N.Parameswari
2.M.Gayathri
3.S.Ramadurai
4.D.S.Gowrishankar
Dhanammal(Deceased)
5.K.Vadivel
6.Arumugam
7.Valliammal
8.K.Mahadevan
9.Mallika
10.Selvi
11.Kanchana

.. Respondents

PRAYER

Civil Revision Petition filed under Article 227 of the
Constitution of India as against the fair order and decretal order dated

19.02.2018 in IA.No.257 of 2017 in OS.No.920 of 2013 on the file of the XVI Additional City Civil Court, Chennai.

For Petitioners : Mr.David Tyagarajan

ORDER

The Civil Revision Petition is taken up for final disposal at the admission stage itself.

2. According to the revision petitioners, the respondents have filed a suit for declaration in OS.No.920 of 2013 on the file of the XVI Additional City Civil Court, Chennai. In the aforesaid suit, the revision petitioners have filed an application in IA.No.257 of 2017 under Section 12 (2) of the Tamil Nadu Court Fees and Suit Valuation Act, 1955 to determine the value of the suit schedule property. The said application was dismissed by the court below on the ground that separate issue can be framed and it can be decided along with the trial. Challenging the said order, the revision petitioners have filed the present Civil Revision Petition before this Court.

3. The learned counsel for the revision petitioners would submit that in the light of the decision of this Court in the case of *S.N.S.Sukumaran Vs. C.Thangamuthu* reported in **2012 (5) CTC 705**, in paragraph 31, sub para (2), it is held that the duty is cast upon the Court under Section 12 (2) of the State Act to first decide the objection before deciding the suit on merits. Therefore, the court below has erroneously dismissed the said application.

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

5. By considering the said submissions of the learned counsel for the revision petitioners and the decision of this Court relied upon by the revision petitioners, in the above case, it has been clearly held that when the defendant comes forward with the case pleaded in the written statement questioning the correctness of the payment of court fee, then the court has to decide the objection before deciding the suit on merits. But in the present case on hand, the revision petitioners have not filed written statement. Now filing the present application at this stage is not

maintainable. Therefore, there is no warrant to interfere with the order passed by the court below and the Civil Revision Petition is liable to be dismissed.

6. The Civil Revision Petition fails and the Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

09.03.2018

Speaking/Non-Speaking order

Index :Yes/No

Internet:Yes/No

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To

The XVI Additional City Civil Court,
Chennai.



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D. KRISHNAKUMAR J.,

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