

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 943 of 2018

and

C.M.P NO. 5075 of 2018

1. Mohammed Sulaiman
2. Mohammed Sulthan

.. Petitioners

Vs

1. Gulsim Beevi
2. Jeenath Begam
3. Jakir Hussain

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 01.11.2017 made in I.A. No. 377 of 2016 in O.S. No. 86 /2008 on the file of Sub Court, Perambalur.

For Petitioners : Mr. S. Mukunth

For Respondents : Mr. J. Deliban

ORDER

This revision petition arises against the order dated 01.11.2017 made in I.A. No. 377 of 2016 in O.S. No. 86 /2008 on the file of Sub Court, Perambalur.

2. The 1st respondent has filed the suit in O.S. No.86/2008 seeking for partition against the petitioners and their sister Ameena Beevi. The petitioners filed the written statement on 10.12.2007. The said Ameena Beevi filed a separate written statement raising an issue as to whether the trial court has got pecuniary jurisdiction since the value of the suit property would be exceeding Rs.24,00,000/-. Pending suit, the 1st defendant Ameena Beevi died. Since the court below proceeded with the trial without deciding the said issue, the petitioners filed the instant application in I.A. No. 377 of 2016, under Order XIV Rule 2 CPC seeking to decide the preliminary issue as to whether the court below is having the pecuniary jurisdiction to try the suit. The said application was dismissed by the court below. Hence, the present civil revision petition is filed before this Court.

3. The learned counsel for the respondents would submit that evidence of both sides have been concluded and the trial has been completed. At this stage, the present application has been filed and hence the court below has rightly dismissed the application.

4. The learned counsel for the petitioner would submit that this Court may pass appropriate orders to the court below to frame additional issue, with regard to the question of pecuniary jurisdiction, to try the suit. The learned counsel for the respondents has no serious objection to the said contention to be considered by this Court.

5. Considering the above submissions of the learned counsel for both the parties, this Court is inclined to pass the following order:

1. The order passed by the court below in I.A. No. 377 of 2016 in O.S. No. 86/2008 is confirmed.
2. The court below is directed to frame additional issues in the aforesaid suit, as to whether the court below has pecuniary jurisdiction to try the suit.

3. After framing of additional issues and providing opportunity to the parties, the suit may be decided.

4. Considering the fact that the suit is of the year 2008, the court below is directed to dispose of the suit, as expeditiously as possible, preferably on or before 30.06.2018.

6. The Civil Revision Petition is disposed of, with the above direction. Consequently, the connected Miscellaneous Petition is closed.
No costs.

12.03.2018

Index : Yes/ No

Speaking order/ Non speaking order

[Issue order copy on 25.04.2018]

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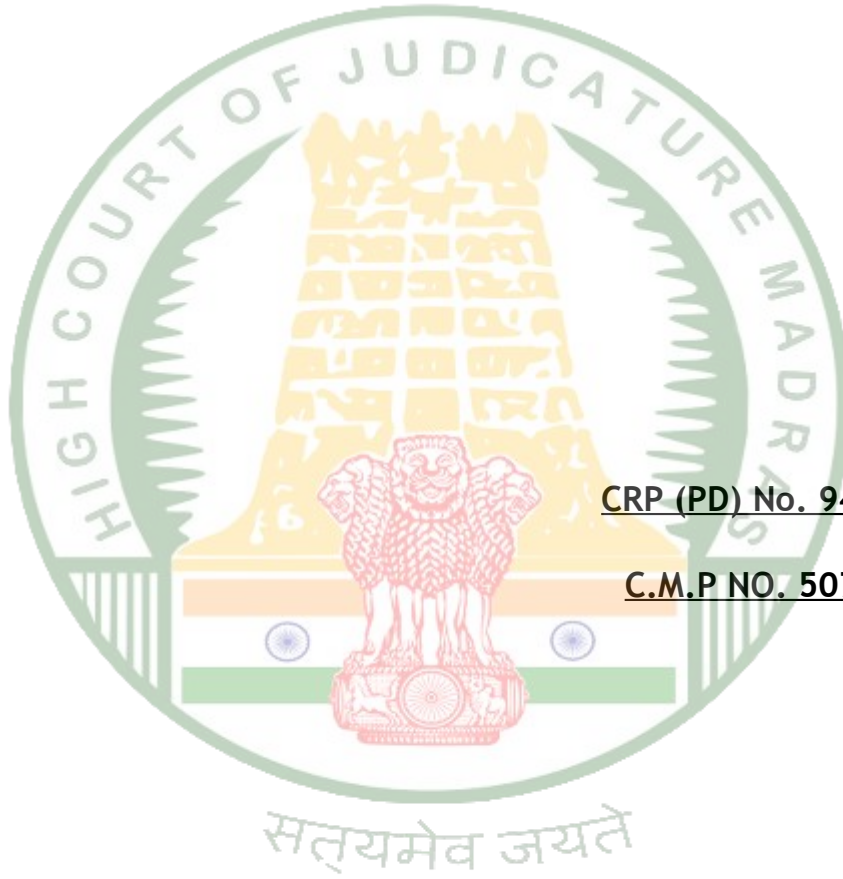
To

The Sub Court,
Perambalur.

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D. KRISHNAKUMAR J.,

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