



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2018

CORAM

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THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

C.R.P. (MD) (PD) No.2615 of 2015

N.Seenivasan .. Petitioner/Petitioner/1st Defendant

vs

P.Gurusamy .. Respondent/Respondent/Plaintiff

Prayer: Civil Revision is filed under Article 227 of the Constitution of India, against the Fair and Decretal Order dated 25.06.2015 passed in I.A.No.650 of 2013 in O.S.No.236 of 2013 on the file of the District Munsif, Sivakasi.

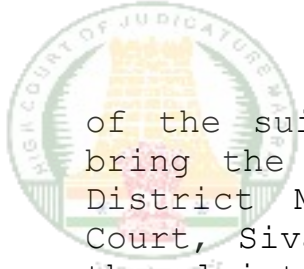
For Petitioner : Mr.K.Rajeshwaran

For Respondent : No Appearance

ORDER

The case of the petitioner is that the respondent herein as plaintiff filed the suit against the petitioner herein and others in O.S.No.236 of 2013 on the file of the learned District Munsif Court, Sivakasi for the relief of declaration to declare the suit property belongs to Shri Nindra Narayana Perumal Temple, consequently restraining the 1st defendant from putting up any construction or alter the structure of the suit property, to declare the judgment and decree made in O.S.No.172 of 2010 will not bind on the temple and for permanent injunction from handing over possession of the property to the 1st defendant, except to the 2nd defendant in pursuance of pending E.P.No.73 of 2012 or any other execution petition.

2.Pending disposal of the said suit, the petitioner herein/1st defendant took out an application in I.A.No.650 of 2013 to reject the plaint under Order 7, Rule 11 of CPC, on the ground that the plaintiff has undervalued the suit property and barred by limitation. Admittedly the market value of the suit property would be @ Rs.25 lakhs to the extent of 1,302 sq ft, whereas the plaintiff has valued the suit property as if the market value of the suit property is @ Rs.1,000/- and paid court fee and filed the suit before the learned District Munsif Court, Sivakasi. The value



of the suit property has been mentioned as Rs.1,000/- so as to bring the suit within the pecuniary jurisdiction of the learned District Munsif Court. Therefore, the learned District Munsif Court, Sivakasi is not having jurisdiction to try the suit. Hence the plaint is liable to be rejected on the ground of under valuation and pecuniary jurisdiction.

3. The said application was resisted by the plaintiff / respondent herein contending that the Engineer Certificate filed by the petitioner herein cannot be accepted, since the Engineer is not an approved Engineer. Therefore, the contention of the petitioner herein cannot be accepted that the suit property would be worth about Rs.25 lakhs. The plaintiff has paid the correct court fee by mentioning the proper value for the suit property. Further the issue relating to pecuniary jurisdiction and the court fee could be decided only at the time of trial. The plaint cannot be rejected at the threshold on the aforesaid ground. The intention of the petitioner is only to drag on the trial of the suit and to grab the property of the temple. Therefore he prays to dismiss the aforesaid application.

4. Upon considering the rival submission, the Trial Court by the order dated 25.06.2015 dismissed the application to reject the plaint filed by the revision petitioner. Challenging the same the present civil revision petition is filed.

5. I heard Mr.K.Rajeshwaran, learned counsel for the petitioner and there is no representation on behalf of the respondent. This Court has perused the entire materials available on record.

6. Before discussing the issue involved in this civil revision petition, it would be useful to extract Order 7, Rule 11 CPC which reads as follows:

"Order 7: Plaint:

Rule 11: Rejection of plaint:--The plaint shall be rejected in the following cases:

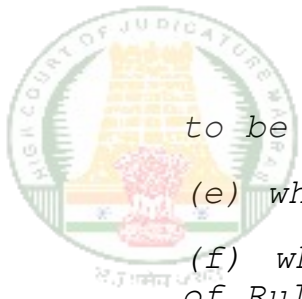
(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

<https://hcservices.ecourts.gov.in/hcservices/>

(d) where the suit appears from the statement in the plaint



to be barred by any law;

(e) where it is not filed in duplicate;

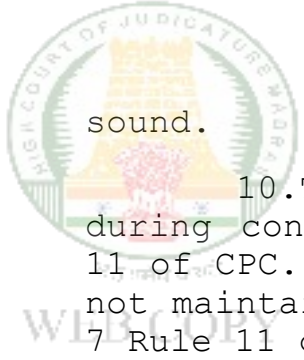
(f) where the plaintiff fails to comply with the provisions of Rule 9:

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff."

7.The point for consideration in this civil revision is as to whether the plaint is liable to be rejected on the ground that the suit is not properly valued as contemplated under Order 7 Rule 11(b) and (c) of CPC.

8.As per the above provisions of the Code of Civil Procedure, the plaint can be rejected only under the circumstances stated therein and not otherwise. Insofar as the present case is concerned, the plaint is sought to be rejected only by invoking sub-rule (b) of Rule 11 of Order 7 of CPC. It is to be noted at this juncture that what is contemplated is the rejection of the plaint and not the relief sought for in the suit itself. In other words, the Court will not go into the merits of the plaint as well as the rival contentions made by the defendant on the merits of the suit claim, while considering the application filed under Order 7 Rule 11 of CPC.

9.It is seen from the records that the revision petitioner has filed the present application to reject the plaint on the ground that the suit is barred by limitation, the plaintiff has undervalued the suit property and paid lesser court fee and therefore the learned District Munsif Court is lacking its pecuniary jurisdiction to try the suit. However, the Trial Court dismissed the application by holding that unless the petitioner / 1st defendant has shown any legal point to reject the plaint under any law by statutorily as described under Order VII, Rule XI of CPC, the plaint cannot be rejected and the grounds raised to reject the plaint could be considered only after conducting full fledged trial. The said finding of the Court below, in my considered opinion need not be disturbed as the same is legally



sound.

10. The averments raised in the plaint cannot be decided during consideration of the application filed under Order 7 Rule 11 of CPC. Even if the suit is frivolous, it cannot be rejected as not maintainable, by considering the application filed under Order 7 Rule 11 of CPC.

11. In view of the foregoing discussion, the petitioner's contention cannot be countenanced and therefore, this Civil Revision Petition is liable to be dismissed, accordingly it is dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The District Munsif, Sivakasi.

+ 1 cc TO Mr. K. Rajeshwaran, Advocate in SR No. 66734

vsv

AE/JC/SAR4/11.06.2018/4P/3C

order made in
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