

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2019

CORAM

THE HONOURABLE **Mr.JUSTICE N. SATHISH KUMAR**

CRP.PD.No.3171 of 2013
and M.P.No.1 of 2013

M.Mohammed Aslam Petitioner/1st defendant

Vs

1. K.Saboor Kamil
2. M.Noor Sahar
3. M.Muneer Ahamed Respondents/Plaintiffs
4. K.Jainabu
5. K.Noor Sameena
6. The Sub-Registrar
Periamet,
Chennai – 600 003 ... Respondents/Defendants 2 to 4

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order passed by the learned XVIII Additional City Civil Court Judge, Chennai in I.A.No.169 of 2012 in O.S.No.5594 of 2012 dated 30.07.2013.

For Petitioner : Mr. G.Ilamurugu
For Respondents : Mr.Venkatesh Mohanraj
for RR1 to R3.
No appearance for R4 to R6.

ORDER

This revision is filed as against the order of the trial court dismissing the application filed under Order 7 Rule 11 of C.P.C., rejecting the suit.

2. The suit has been originally filed by the respondents for partition and consequently, an application has been taken out to reject the plaint on the ground that the suit is not valued properly. Besides unilateral cancellation of release deed is not valid and there is no cause of action, the trial Court has dismissed the application, against which, the present revision is filed.

3. Heard the learned counsel appearing for the revision petitioner and the learned counsel appearing for the respondents.

4. It is the contention of the revision petitioner that unilateral cancellation of release deed is not valid, therefore, the suit filed on such document is not maintainable. Further, the value also not set out, whereas, the learned counsel appearing for the respondents

submitted that all these facts is a matter of evidence. The suit cannot be rejected at this stage.

5. I have perused the materials available on record.

6. The suit can be rejected only on the ground under order 7 Rule 11 of C.P.C. The Trial Court has considered the fact that the suit cannot be rejected and the allegations in the petition is a matter of evidence, all those cannot be gone into the stage at the time of trial.

7. The trial Court has dismissed the application. When there are triable issues, the suit cannot be rejected. Hence, I am of the view that when triable issues are involved in the suit, the same cannot be rejected on the ground that there is no cause of action. Whether the suit has been valued properly or not, is a matter for enquiry and it cannot be gone under Order 7 Rule 11 of C.P.C. Similarly, whether the unilateral cancellation is valid or not also cannot be gone into at this stage which requires a proper trial. Hence, I do not find any error or illegality in the order passed by the trial Court.

N.SATHISH KUMAR,J.

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8. Accordingly, the Civil Revision Petition is dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

9. The trial Court is directed to dispose of the suit within a period of three months from the date of receipt of a copy of this order.

26.04.2019

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

1.The XVIII Additional City Civil Judge,
Chennai.

2. The Sub-Registrar
Periamet,
Chennai – 600 003.

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