

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09 / 09 / 2020

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

CRP (PD) NO.3895 OF 2017
AND CMP NO.18202 OF 2017

1.M.Rajendran (Deceased)

2.R.Lakshmi

3.R.Prabhu

4.R.Pavithra

5.R.Gayathri

(Petitioners 2 to 5 brought on record as LRs' of the deceased Sole Petitioner viz., M.Rajendran vide Court order dated 21.12.2017 made in CMP No.20915/2017 in CRP No.3895/2017)

... Petitioners

1.Munusamy

2.Yasodha

3.Neela

सत्यमेव जयते

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order passed in I.A.No.3048 of 2017 in I.A.No.771 of 2011 in O.S.No.9030 of 2006 on the file of the XII Assistant City Civil Court, Chennai, dated 01.09.2017.

For Petitioners : Mr.P.Mathivanan

For Respondents : Mr.R.G.Annamalai

ORDER

Challenging the order of the Trial Court to fix the value of the suit schedule property, the present Civil Revision Petition has been filed.

2. The revision petitioner / first defendant filed an interlocutory application under Section 3 of the Partition Act, 1893, for a direction to buy the share of the first respondent / plaintiff and to fix fair valuation of the suit schedule property. The respondents 2 and 3 are the defendants 2 and 3 in the suit. According to the first respondent / plaintiff, the value of the suit property is only Rs.80,00,000/-, as per the report of the qualified Engineer. On the other hand, the report submitted by the petitioner / first defendant, indicates the value of the property at Rs.3,09,60,852/- along with the value of the superstructure. There is no dispute with regard to the existence of the land area and the measurement of the superstructure. The Trial Court has fixed the

upset price of the suit schedule property at Rs.2,75,00,000/- (Rupees Two Crores Seventy Five Lakhs Only) based on the above documents submitted before it.

3. When the matter was taken up for hearing, this Court considered the submissions made on behalf of the first respondent that the suit property shall not be sold. Accordingly, the petitioners were directed to reconcile and file a Memorandum of Compromise with respect to dividing the the property conveniently between the parties. However, no consensus could be arrived at. The first respondent / plaintiff, on the one hand is not agreeing for sale of the property and on the other hand, refused to pay for the share of the other side at the market value. The market value projected by the first respondent / plaintiff is only Rs.80,00,000/- and the market value projected by the petitioner / first defendant is Rs.3,09,60,852/-. There is a difference of around Rs.2,29,00,000/- between the prices submitted by both the parties. The comparison shows huge difference in fixing the market value. When the parties could not reconcile themselves, for dividing the

property conveniently, there is no other go, other than selling the property. When the property is sold at a higher price, it is beneficial to both the parties. Therefore, when the plaintiff is not willing to purchase the shares of the other side, he has to agree for sale of the property. In that view of the matter, fixing the highest market rate, could be beneficial to both the parties, the trial Court fixed the upset price. I do not find any discrepancy in the order passed by the Trial Court.

4. Once again, considering the sentiments of the plaintiff attached over the suit property, an opportunity is given to him to reconcile the differences with the first defendant and other defendants, and divide the suit schedule property in order to avoid sale, for which purpose, one month time from the date of receipt of a copy of this order is granted. If the parties could not arrive at a settlement, as ordered by the Trial Court, sale of the suit schedule property shall take place, having Rs.2,75,00,000/- (Rupees Two Crores Seventy Five Lakhs Only) as minimum upset price fixed.

5. The Civil Revision Petition is disposed of accordingly. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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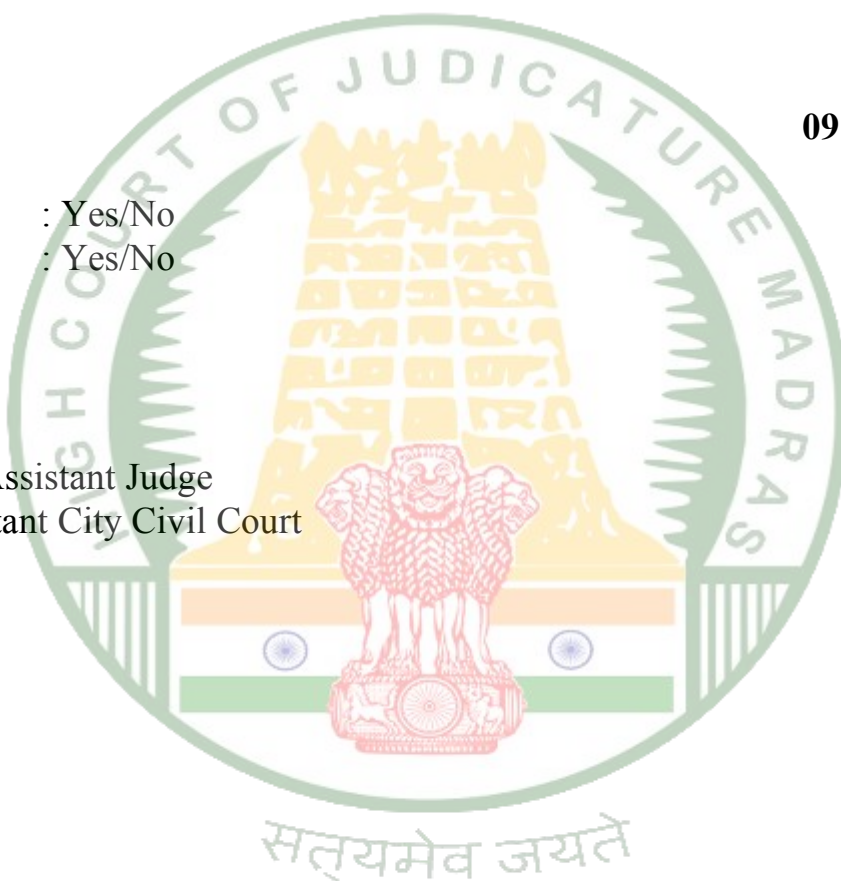
Index : Yes/No

Internet : Yes/No

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To

The XII Assistant Judge
XII Assistant City Civil Court
Chennai.

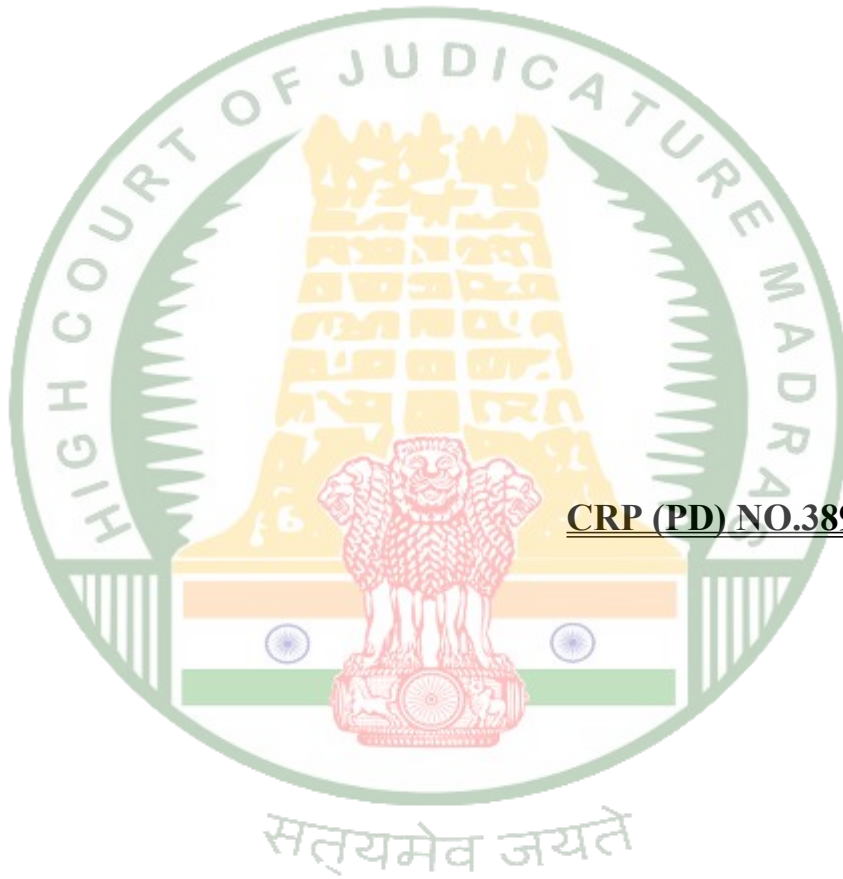


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M.GOVINDARAJ, J.

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