

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD).No. 2992 of 2018

J.Shankar

...Petitioner

Vs.

Arulmighu Sithi Vinayagar and
Nadu Vazhi Amman Group of Temples,
Rep. By its Executive Director,
Arulmighu Tharakeswara Swamy Temple,
Thottapalayam, Vellore – 632 004.

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 11.04.2018 passed in I.A.No.1333 of 2017 in O.S.No. 307 of 2010 pending before the Principal District Munsif, Vellore.

For Petitioner : Mr.D.Nandagopal

For Respondent : Mr.A.K.Sriram for M/s.A.S.Kailasam and Associates

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ORDER

The defendant in O.S.No.307 of 2010 has come up with this civil

revision petition, challenging the order of the Trial Court dismissing the application in I.A.No.1333 of 2017 seeking rejection of the plaint on the ground that the suit has not been valued properly, the notice under Section 106 of the Transfer of Property Act has not been served to the correct address and the plaintiff has not produced any document to prove his title for the suit property.

2. The Trial Court, upon a consideration of the claims made in the application, dismissed the same as none of them would offer a ground for rejection of plaint under Order 7 Rule 11 of C.P.C.

3. Heard Mr.D.Nandagopal, learned counsel for the petitioner and Mr.A.K.Sriram, learned counsel for the respondent.

4. Mr.D.Nandagopal would contend that the Trial court was not right in allowing the application filed by the plaintiff for amendment of the plaint to correct the provision regarding payment of Court fee pending the application for rejection of the plaint. He would also reiterate the two other

grounds that were raised by the Trial Courts namely, non-service of notice under Section 106 to the proper address and the absence of proof of title of the plaintiff.

5. I do not find any of the three grounds raised would offer the basis for rejecting the plaint under Order 7 Rule 11 of C.P.C. As far as the other two grounds namely, non-service of notice under Section 106 and non-production of title deeds by the plaintiff, they will have to be decided only during trial on the basis of evidence that is to be let in. The suit is one for ejectment on the basis of a termination of a lease, production of document of title in such a suit along with the plaint is not mandatory. As regards the service of notice under Section 106, the plea has been taken that it was not served at the correct address. Again, it is an issue to be decided on the basis of an evidence. These will not offer a ground for rejection of the plaint.

6. The third question is regarding Court fee. The suit was valued under Section 30 and objection was taken up by the defendant for the valuation. Pending application under Order 7 Rule 11 of C.P.C., the

plaintiff filed an application in I.A.No.24 of 2018 seeking to amend the plaint to correct the provision of law regarding the payment of Court fee. It is stated that the said application was allowed by the Trial court and the order has not been challenged. So the third ground for rejection of the plaint does not survive.

7. Therefore, none of the contentions raised by the learned counsel for the petitioner merit acceptance. This civil revision petition fails and it is accordingly dismissed. Consequently, connected miscellaneous petition is closed. No costs.

05.10.2020

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To:
The Principal District Munsif,
Vellore.

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R.SUBRAMANIAN, J.

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