

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P. (PD) No.4014 of 2018
and CMP No.22229 of 2018

1. G.Parasuraman

2. Chittiammal

3. Vani D.

4. Minor D.Bharathi

.. Petitioners

Vs.

1. Vasantha

2. Shanthi

3. Sumathi

4. Chitra

5. Arumugam

6. Venkatesan

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 02.08.2018, made in I.A.No.200/2018 in OS No.174/2016, on the file of Subordinate Judge, Arakkonam.

For Petitioners : Mr. A.Gouthaman

For Respondents : Mr. K.V.Ananthakrushnan

ORDER

This matter is taken up for hearing through Video-Conferencing.

The plaintiffs in OS No.127 of 2012 have come up with this Revision Petition, challenging the dismissal of IA No.200 of 2018 filed by them seeking amendment of the plaint.

2. Originally the suit was filed before the District Munsif Court, Sholinghur, for declaration of title in respect of A and B Schedule property, permanent injunction and for other reliefs. While valuing the suit, the suit A Schedule property being agricultural land were valued at 20 times the kist. Though the suit B Schedule is a House site it was also valued at 20

times the kist.

3. In the written statement a plea was taken that the valuation of B Schedule property has not been properly made and proper Court fee has not been paid. Thereafter, the suit was transferred to Sub Court, Arakonam, and numbered as OS No.174 of 2016. The plaintiffs filed IA No.200 of 2018 seeking to amend the valuation to incorporate the market value of the suit B Schedule property and to pay the deficit court fee. The learned Trial Judge had dismissed the application on the ground of delay. I am unable to sustain the view taken by the learned Trial Judge.

4. Even if an issue regarding improper valuation and shortage of Court fee is framed in a suit and the issue is decided against the plaintiff, the Court has to require the plaintiff to make good the deficit. The court cannot dismiss the suit on that ground. Only if the plaintiff does not make good the deficit, the plaint can be rejected under Order 7 Rule 11 of the Code of Civil Procedure. This fundamental principle of law has been lost sight of by the learned Subordinate Judge when she dismissed the application as belated.

5. I am therefore of the opinion that the order of the learned Subordinate Judge is liable to be set aside and the same is accordingly set aside. The application in IA No.200 of 2018 will stand allowed. The plaintiffs are required to carry out the amendment and pay the deficit Court Fee within a period of four weeks from the date of the receipt of copy of the order and also file amended copies of the plaint. It is open to the defendants to file an additional written statement, if they are so advised. The Civil Revision Petition is therefore **allowed**. No costs. Consequently, the connected miscellaneous petition is closed.

24.09.2020

jv
Index: No
Internet: Yes
Speaking order

To

1. The Subordinate Judge,
Arakkonam.
2. The Section Officer,
V.R.Section, High Court of Madras.

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R.SUBRAMANIAN, J.

jv



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