



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2020

CORAM

THE HON'BLE MR.JUSTICE S.S.SUNDAR

C.R.P. (PD) (MD)No.428 of 2019

and

C.M.P. (MD)No.2137 of 2019

WEB COPY

Lakshmi : Petitioner

.. Vs ..

Baluchamy (Died)

- 1.Vilangar
- 2.Vallimayil
- 3.Indrani
- 4.Chandran
- 5.Nagarajan
- 6.Kalimuthu
- 7.Selvi
- 8.Shanthi
- 9.Kanniga

: Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order, dated 06.06.2018 made in I.A.No.361 of 2017 in O.S.No.94 of 2013 on the file of the District Munsif Court, Mudukulathur.

For Petitioner

:Mr.S.Anand Chandrasekar

for M/s.Sarvabhauman Associates

ORDER

This Civil Revision Petition is directed against the order, dated 06.06.2018 made in I.A.No.361 of 2017 in O.S.No.94 of 2013 on the file of the District Munsif Court, Mudukulathur.

2.The revision petitioner is the defendant in the suit in O.S.No.94 of 2013, whereas, the respondents herein are the plaintiffs in the suit. The suit was filed by the respondents for declaration of title and for consequential permanent injunction in respect of suit schedule and also for mandatory injunction to remove the stones that were planted by the defendant in the suit property by encroaching into the property of plaintiffs. The suit was contested by the defendant by raising various legal and factual issues.

3.During the pendency of the suit, the revision petitioner filed an application in I.A.No.361 of 2017 in O.S.No.94 of 2013 to reject the plaint under Order VII Rule 11 CPC mainly on the ground that the plaint does not disclose a cause of action and that the suit is grossly under valued. The learned Counsel for the revision petitioner submitted that the plaint does not disclose a cause of action for seeking any relief in respect of "EFCD" services from Govt. in/for the



4.The trial Court found that the suit "EFCD" portion is only a portion of the suit property, which was described as "ABCD" in the plaint plan and that therefore, the contention that the plaint does not disclose a cause of action cannot be accepted based on the statement of facts, that are pleaded in support of the petition filed under Order VII Rule 11 CPC. With regard to the ground that the suit is liable to be dismissed for under valuation, the trial Court rejected the said contention on the ground that the issue relating to under valuation can be decided as a preliminary issue during the trial and that therefore, the plaint cannot be rejected on that ground. Aggrieved by the same, the present revision petition is filed.

5.This Court does not find any error or illegality in the order of lower Court dismissing the petition filed by the revision petitioner under Order VII Rule 11 CPC. From the reading of entire plaint, it is seen that the plaint discloses cause of action and it is not even demonstrated before this Court as to how the suit can be dismissed for want of cause of action, when specific averments have been made regarding how the revision petitioner has encroached into the portion of the suit property, for which the plaintiffs claim exclusive title.

6.Regarding under valuation of suit, it is to be noted that the valuation cannot be taken, as suggested by the defendant in the written statement. *Prima facie*, the Court will have to accept the valuation as per the plaint for the purpose of numbering the plaint. If the plaint is grossly undervalued, it can be raised as a primary issue, as it was suggested by the lower Court. Therefore, this Court is of the view that there is no merit in the revision petition and that the order of lower Court need not be interfered with.

7.As a result, this Civil Revision Petition is dismissed and the order passed by the learned District Munsif, Mudukulathur, dated 06.06.2018 in I.A.No.361 of 2017 in O.S.No.94 of 2013 is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



The District Munsif, Mudukulathur.

+1 CC to M/s.SARVABHAUMAN ASSOCIATES, Advocate (SR-16805[F] dated 15/09/2020)

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