



CRP (PD) No.695 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No.695 of 2021
and CMP No.6072 of 2021

1. A.Bakthavatchalu
2. B.Mogan
3. A.Vinayagam
4. V.Madhankumar
5. V.Karthi
6. A.Perumal
7. P.Murugan

... Petitioners

Vs

1. V.Srinivasan
2. P.Udayakumar

... Respondents

Prayer: The Civil Revision petition filed under Article 227 of Constitution of India, against the dismissal order passed in IA No.465 of 2018 in O.S.No.240 of 2019, dated 02.02.2021 passed by the learned Special Subordinate Judge, Special Sub Court for LAOP Cases, Arakkonam, Vellore District.



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For Petitioner : Mr.B.Gopalakrishnan

ORDER

The defendants in O.S.No.240 of 2019 (O.S.No.95 o 2018 on the file of the Sub Court, Vellore) on the file of the Sub Court, Arakkonam is on revision. Challenge is to the order of the trial Court, dismissing their application filed under Order VII Rule 11 of C.P.C., seeking rejection of the plaint.

2. The plaintiffs sued for declaration of his title, recovery of possession, mandatory injunction and permanent injunction, consequential relief's of declaration of certain settlement deeds as void were also sought for. The defendants upon service, filed an application in IA No.465 of 2018 seeking rejection of plaint under Order VII Rule 11 of C.P.C., contending that the suit is not properly valued and that the suit is abuse of process of Court.



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3. The trial Court found that the valuation adopted by the plaintiff is not shown to be incorrect. It concluded, rightly, that the rejection of the plaintiff on the ground of valuation would arise only if the Court records a finding that the valuation is not proper and the plaintiffs after being called upon to pay Court fee, fail to pay Court fee. Therefore, the learned trial Judge concluded that the application seeking rejection on the ground of improper valuation is not sustainable.

4. As regards the claim that the suit is an abuse of process of Court, the trial Court held that while considering the application under Order VII Rule 11 of C.P.C., the Court cannot go into the evidence and it is the veracity of the document. It also further pointed out that the plaintiff allegations have been taken as true for the purpose of deciding whether the suit discloses a cause of action or it is an abuse of process of Court. If the plaintiff allegations are to be taken as true, the suit cannot be termed as abuse of process of Court according to the trial Court. On the above conclusion, the learned trial Judge dismissed the application.



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5. I have heard Mr.B.Gopalakrishnan, learned counsel appearing for the petitioners.

6. Mr.B.Gopalakrishnan, learned counsel appearing for the petitioners would vehemently contend that the trial Court erred in dismissing the application. He would draw my attention to the document produced in the suit to contend that the document has been tampered with. The trial Court had pointed out that the veracity of the document and correctness of the document cannot be considered while deciding an application under Order VII Rule 11 of C.P.C., I concur with the said conclusion of the trial Court. On question of valuation also, the trial Court has held that it is open to the plaintiff to establish that the property has been valued at a lower value and lower Court fee has been paid. Even then, the Court has to give an opportunity to the plaintiffs to rectify the same and pay the Court fee. Only if the plaintiff does not pay the Court fee, upon being called to do so, the plaint would be rejected. I therefore, do not find any reason to interfere with the order of the trial Court. The revision therefore fails and it is accordingly dismissed. However, considering the fact that the



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suit is of the year 2018, and it has been renumbered upon transfer, the trial

Court is directed to dispose of the suit within a period of one year from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

07.12.2021

vum

Index: Yes/No

Speaking order / Non speaking order

To:

The Special Subordinate Judge,
Special Sub Court for LAOP Cases,
Arakkonam, Vellore District.



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R.SUBRAMANIAN, J.

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