

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

**C.R.P.(PD) No.1556 of 2021
and C.M.P.No.12192 of 2021**

1.N.Govindan
2.G.Kuppan

...

Petitioners

Vs.

1.R.Ellappan
2.R.Annamalai
3.R.Ganesan
4.R.Anandan

...

Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India as against the order dated 28.06.2021 passed in I.A.No.169 of 2020 in O.S.No.213 of 2020 on the file of the District Munsif cum Judicial Magistrate, Thandrampattu, Thiruvannamalai District.

For Petitioners : Mr.P.Saravanan
For Respondents : Mr.

ORDER

This Civil Revision Petition is filed, against the order dated 28.06.2021 passed in I.A.No.169 of 2020 in O.S.No.213 of 2020 on the file

of the District Munsif cum Judicial Magistrate, Thandrapattu, Thiruvannamalai District.

2.The respondents herein has filed a suit in O.S.No.213 of 2020 for declaration and deliver vacant possession of the suit property.

3.During the pendency of the suit, the petitioners herein has filed an application under Order 7 Rule 11 of CPC in I.A.No.169 of 2020, to reject the plaint.

4.It is a specific case of the petitioners that the 3rd respondent purchased the suit property from the 1st petitioner herein in the year 2000, for a total sale consideration of Rs.41,000/- under the sale deed No.647 of 2000. But in the plaint, value of the suit was mentioned as Rs.20,000/- for 22 cents, which is contrary to its value and the suit property was grossly under valued. The present value of the suit property goes upto Rs.1,19,790/- to the total extent of 1089 sq.ft., which is seen from the Encumbrance Certificate. Because of under valuation of the suit property and also the fact that there is no cause of action to institute a suit, the suit has to be rejected.

5.This Civil Revision Petition has been resisted by the respondents on the ground that the issues raised in the petition have to be

adjudicated in the regular trial. Therefore, the trial Court has rightly dismissed the I.A.No.169 of 2020, filed under Order 7 Rule 11 of CPC on 28.06.2021.

6.Considering the submissions and the materials produced, the learned trial Judge dismissed the petition stating that the valuation of the suit property cannot be decided now, on the basis of the settlement executed between the parties. After filing of written statement, there is a possibility of framing issues with regard to valuation of the suit property and Court fee paid thereon. So far, petitioners have not filed written statement in the suit. In the said circumstances, the learned trial Judge has found that the suit cannot be rejected.

7.As narrated and submitted by the learned counsel for the petitioners, the main ground on which the petition in I.A.No.169 of 2020 is filed to reject the plaint is that the respondents have grossly under valued the suit property.

8.In this regard the learned counsel for the petitioners pointed out the valuation adopted in the guideline value of the property in Survey

No.15/11A1 for 101.20 Sq.m to Rs.1,19,790/-, He also claimed that the 2nd petitioner sold the property in Survey No.15/11B1 for a total sale consideration of Rs.41,000/-. These documents show that the suit property is grossly under valued. Therefore, he seeks rejection of the plaint on the ground of under valuation and on the basis of under valued property, Court fee was paid by the respondents herein. Caused loss to the Government's exchequer.

9.It is not known, as whether the issue regarding the value of the suit property was raised by the Court before the institution of the suit. However, the issue as to whether the property is valued correctly and correct Court fee was paid is a question of fact that has to be decided by giving opportunity to both the parties.

10.This Court is of the considered opinion that the learned trial Judge may be directed to frame a specific issue with regard to the valuation of the suit property on the basis of documents filed by both the parties in support of their claim. It is submitted that the written statement has not been filed by the petitioners so far. Hence, the petitioners may raise the issues, with regard to under valuation of the suit

property and payment of Court fee, on that issue being raised, the learned trial Judge is directed to frame the issue in this regard and if necessary try that issues as a preliminary issue and pass appropriate orders.

11.With the above direction, the Civil Revision Petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

09.08.2021

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Index:Yes/No

Internet:Yes/No

Speaking Order: Yes/No

Note:Registry is directed to issue order copy on or before 16.08.2021

To

1.The District Munsif cum Judicial Magistrate
Thandrapattu, Thiruvannamalai District.

2.The Section Officer

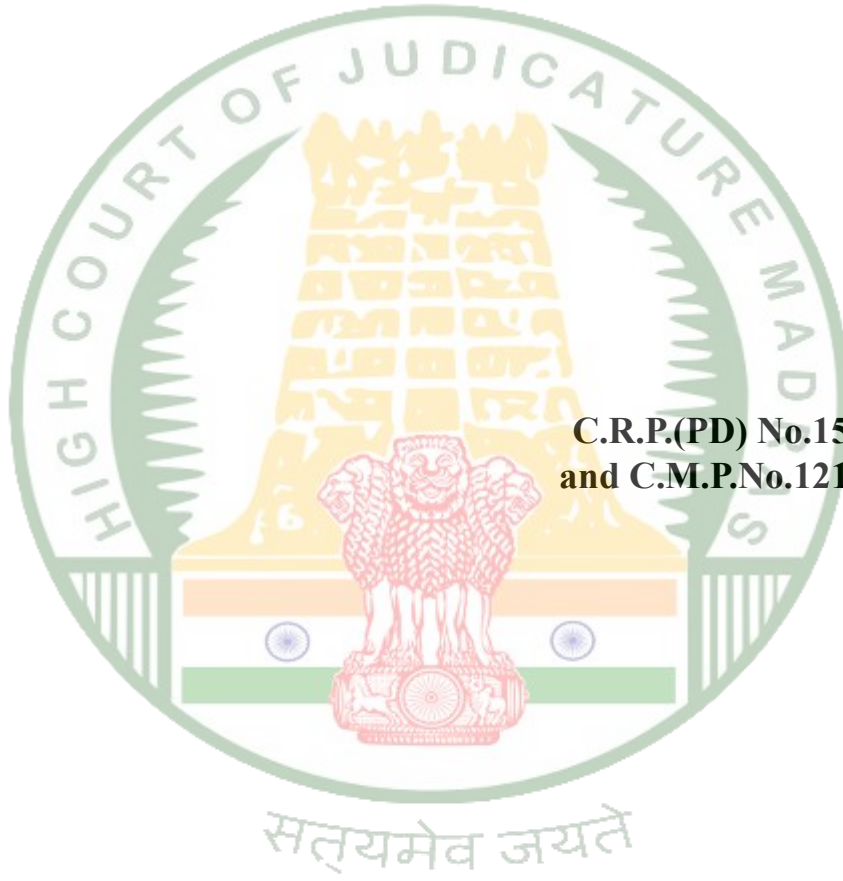
VR Section

High Court of Madras.

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G.CHANDRASEKHARAN.J,

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