

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.Nos.2294 & 2295 of 2017 and
CMP.No.10805 of 2017

CRP.No.2294 of 2017

1.R.Venkatesan
2.R.Mahalingam
3.Mayakrishnan
4.Thanikachalam
5.R.Kavitha
6.S.Gurunathan

..Petitioners

Vs.

1.M/s.Gatsby Collections Private Limited,
No.34, Khadar Navaz Khan Road,
Nungambakkam, Chennai – 600 006
Rep by its Director
Rafiq Sait

2.S.Sundaramoorthy
3.D.Shankar
4.The Sub-Registrar,
O/o the Sub-Registrar,
Cheyyur, Cheyyur Taluk,
Kancheepuram District

..Respondents

PRAYER:

WEB COPY

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the petition order dated 29.04.2017 in IA.SR.No.2074 of 2017 in OS.No.83 of 2010 on the file of the District Munsif Court, Madhuranthagam.

For Petitioners : Mr.A.E.Ravichandran

For Respondents : Mr.N.Selvaraju

CRP.No.2295 of 2017

1.R.Venkatesan
2.R.Mahalingam
3.Mayakrishnan
4.Thanikachalam
5.R.Kavitha
6.S.Gurunathan

..Petitioners

Vs.

M/s.Gatsby Collections Private Limited,
No.34, Khadar Navaz Khan Road,
Nungambakkam, Chennai – 600 006
Rep by its Director
Rafiq Sait

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and final order dated 21.01.2017 in IA.No.552 of 2014 in OS.No.83 of 2010 on the file of the District Munsif Court, Madhuranthagam.

For Petitioners : Mr.A.E.Ravichandran

For Respondent : Mr.N.Selvaraju

COMMON ORDER

The civil revision petition in CRP.No.2295 of 2017 is filed against the fair and final order dated 21.01.2017 in IA.No.552 of 2014

in OS.No.83 of 2010 on the file of the District Munsif Court, Madhuranthagam, thereby dismissing the petition to strike off the relief of declaration of title as not maintainable. The civil revision petition in CRP.No.2294 of 2017 is filed against the petition order dated 29.04.2017 in IA.SR.No.2074 of 2017 in OS.No.83 of 2010 on the file of the District Munsif Court, Madhuranthagam, thereby rejecting the petition to take the correctness of the valuation and the payment of court fee by the plaintiff for the relief of declaration of title as a preliminary issue and decide the same in accordance with law.

2. In both the civil revision petitions, the petitioners are the defendants and the first respondent is the plaintiff. The first respondent filed suit for declaration declaring that the partition deed, power of attorney and the agreement for sale is null and void. While pending the suit, the first respondent filed petition for amendment to include the prayer of declaration of title over the suit schedule property and the same was allowed. Thereafter, the petitioners filed petition in IA.No.552 of 2014 to strike off the relief of declaration of title over the suit property. Already the first respondent filed petition for amendment to include the prayer of declaration and the same was allowed. The

petitioners filed their petition to strike off the said relief only for the reason that the first respondent failed to make payment of court fees after amendment of plaint prayer by adding the prayer of declaration of title. The first respondent already paid court fees and after payment of court fees, the amended plaint copy also filed on 24.10.2013 and the same has been taken on file on 30.10.2013. Thereafter the first respondent paid additional court fees on 17.06.2014. Therefore, the court below rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the court below in IA.No.552 of 2014 dated 21.01.2017.

3. Insofar as CRP.No.2294 of 2017 is concerned, the petitioners filed petition to take the correctness of the valuation and the payment of court fees for the relief of declaration of title in respect of the suit property as a preliminary issue and decide the same in accordance with law. On perusal of the records shows that the court below already framed the issues in respect of the valuation of court fees. Therefore, the court below rightly rejected the petition even without numbering the same. As such this Court finds no infirmity or illegality in the order passed by the court below. Accordingly, the civil revision petition in CRP.No.2294 of 2017 is liable to be dismissed. However, the court below is directed to

decide the issue of valuation of court fees as preliminary issue and decide the same and proceed with the suit in respect of other issues.

4. Further, the learned counsel for the respondents submitted that the petitioners also filed suit for declaration for the very same property in OS.No.173 of 2010 as against the first respondent. Both the suit in OS.Nos.83 of 2010 and also OS.No.173 of 2010 were dismissed for default. However, the learned counsel for the petitioners would submit that in both the suits, they have filed petitions to restore the suits and both the suits now transferred to the District Munsif Court, Cheyyur. Considering the above, if both the suits are restored to file, the trial court concerned is directed to adhere to the above directions and dispose of the suits.

5. With the above observations, these civil revision petitions are dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

19.03.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
lok

G.K.ILANTHIRAIYAN,J.

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To

- 1.The District Munsif Court,
Madhuranthagam.
- 2.The District Munsif Court,
Cheyyur.



CRP.PD.Nos.2294 & 2295 of 2017

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