

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2021

CORAM

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

**C.R.P.(PD) No. 4271 of 2018
and CMP. No.23414 of 2018**

1.R.Pavayee
2.V.R.Ramasamy
3.R.Selvamani
4.V.M.Prema

... Petitioners

Vs

1.N.Pavayee
2.S.S.Tamilselvi
3.R.Radhamani

... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 31.10.2018 in I.A.No.462 of 2018 in O.S.No.159 of 2017 on the file of III Additional District Court, Salem.

For Petitioners : M/s.Preethi Rajan
for Mr.Selvaraj

For R1 : Mr.N.Umapathi

For R2 & R3 : No appearance

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 31.10.2018 in I.A.No.462 of 2018 in O.S.No.159 of 2017 on the file of III Additional District Court, Salem, thereby dismissing the petition for rejection of plaint.

2. The petitioners are the defendants and the first respondent is the plaintiff. The first respondent filed a suit for partition in respect of the suit properties. While pending the suit, the petitioners filed a petition for rejection of plaint on the ground that the suit is barred by limitation, no valid cause of action and no proper court fees paid for the suit properties. The Court below dismissed the same for the reason that the plaint has mixed question of law and question of facts. It cannot be rejected for the same. All the grounds raised by the petitioners have to come into full fledged trial and these points can be considered during the trial and after completion of trial. Therefore, the Court below rightly dismissed the same. This Court finds no illegality or infirmity in the order passed by the Court below.

3. Accordingly, the Civil Revision Petition is dismissed.

However, both the counsel represented that there are possibility for settlement between them. If the parties are ready and willing to settle the issues amicably, they are at liberty to settle the issues before the Court below. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

16.06.2021

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

The III Additional District Judge,
Salem.



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G.K.ILANTHIRAIYAN.J,

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