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C.R.P. No.984 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.07.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. No.984 of 2019

and

C.M.P.No.6513 of 2019

V.Selva Kumar
S/o Late Varadharajan
defendant

... Petitioner/Petitioner/1st

Vs.

1.V.Amsaveni
W/o Late M.Varadharajan

... 1strespondent
/1strespondent/plaintiff

2.J.Vijayarani
W/o K.S.S.Jayakumar

3.V.Yuvaraj
S/o Late Varadharajan

...2nd and 3rd respondents
/2nd and 3rd Defendants

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 29.11.2018 passed in I.A.No.327 of 2018 in O.S.No.69 of 2016 by the



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learned Principal District Munsif at Alandur.

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For Petitioner : Mr.T.Sai Krishnan

For Respondents : Mr.R.Chandrasudan for
Mr.T.Jurisman Fernando for R1
for R2 – No appearance

ORDER

The first defendant in the O.S.No.69 of 2016 filed I.A.No.327 of 2018 for rejection of the plaint in O.S.No.69 of 2016. The said petition has been dismissed. Against which, present Civil Revision Petition is filed.

2. Suit in O.S.No.69 of 2016 has been filed by the first respondent herein as plaintiff for the reliefs of declaration and permanent injunction. Pending suit, 1st defendant filed I.A.No.327 of 2018, to reject the plaint on the ground that the suit is clearly barred by pecuniary jurisdiction.

3. The learned counsel for the petitioner submits that there is a patent error in respect of pecuniary jurisdiction and so on the face of the plaint, it should be rejected at the threshold. In support of his contention,



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he relied upon the following decision reported in ***Mahesh Gupta Vs.***

Ranjit Singh and Others reported in ***2009 (110) DRJ 646 (DB)***.

4. Per contra, the learned counsel for the 1st respondent would submit that the suit does not lack any cause of action. The facts cannot be decided in this interlocutory application and elaborate trial is required to decide the same. The findings of the learned Judge in dismissing the said I.A., is perfectly in order and needs no interference of this court.

5. Heard both sides and perused the typed set of papers.

6. The learned Judge found that rejection of plaint is a matter of the court's discretion that has to be exercised with circumspection and the said discretion should be sparingly exercised only in special case. The learned Judge pointed out that it is settled law that the facts relating to the limitation are mixed question of law and fact and the plaint normally cannot be rejected at the inception without evidence. It is also pointed out that the relief sought comes under the pecuniary jurisdiction



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of the court.

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7. In the considered opinion of this court, there is no infirmity in the order passed by the learned Judge. Since the correctness of the valuation of the suit property and payment of court fee is questioned by the 1st defendant, the trial court has to decide the said issues in the foremost consideration and decide the suit on merits. As such, duty is cast upon the trial court, to frame the issue in respect of pecuniary jurisdiction as a preliminary issue and thereafter, if the trial court finds that it lacks pecuniary jurisdiction, the matter may be transferred to the concerned jurisdictional Court, which is having jurisdiction to try the suit.

8. This Civil Revision Petition is disposed of with the above direction. No costs. Interim stay stands vacated.

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To

- 1.The Principal District Munsif, Alandur.
- 2.The Section Officer, V.R.Section
High Court of Madras.



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J.NISHA BANU, J.

Jer/nvsri

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