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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.2801 of 2022

and

CMP.No.15107 of 2022

Rathinambal(Died)

1.Chandrasekar

2.Baskaran

3.Muthu @ Jagadeesan

4.Saraswathy

5. Punniyakodi @ Poongodi

... Petitioners

Vs

1. G.Manjula Devi

2.Manavalan

3.Senthil

...Respondents

Prayer:- This Civil Revision Petition is filed under Section 115 of the Civil Procedure Code to set aside the order dated 13.06.2022 passed on the file of Principal Subordinate Judge, Puducherry and allowing the I.A.No.683 of 2017 in O.S.No.84 of 2017.

For Petitioners : Mr.V.P.Chamuraj

For Respondents : Mr. P.Suresh for Caveator



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ORDER

This Civil Revision Petition is filed challenging the order passed by the court below dismissing the application filed by the petitioner under Section 11(2) of Pondicherry Court Fee and Suit Valuation Act to enquire and decide upon the correct valuation of subject matter of suit.

2. The first respondent herein has filed a suit for partition against the petitioners and other respondents. The petitioners herein who are the defendants 1, 3, 4 & 5 filed the instant application, objecting to the valuation made by the first respondent in the plaint.

3. According to the petitioners, the first respondent is a purchaser from one of the sharers of the petitioners and she is not in joint possession along with the petitioners. Therefore, the first respondent / plaintiff is not entitled to value the suit under Section 37 (2) of the Pondicherry Court Fee and Suit Valuation Act. But they have to value under Section 37 (1) of Pondicherry Court Fee and Suit Valuation Act.



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4. Before the court below, no witnesses were examined and the petitioners marked the Ex.P1 to Ex.P3 in support of their contention. The court below, considering the averments found in the plaint and also title deed produced by the first respondent, came to the conclusion that as per the recitals in both the documents of the first respondent/plaintiff and petitioners/defendants, she is deemed to be in joint possession of the suit property along with petitioners and other respondents. Consequently, the court below found that the suit is correctly valued under Section 37(2) of the Pondicherry Court Fee and Suit Valuation Act. Aggrieved by the said order, the petitioners are before this court.

5. The learned counsel for the petitioners has further submitted that the first respondent is not in joint possession of the suit property along with the petitioners. He further submitted that in a suit for injunction filed by the first respondent's husband in respect of the very same property, there was an admission against the first respondent's joint possession and therefore, the averment in the plaint that the first respondent is in joint possession of the property along with the petitioner, is not correct.



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6. The deposition of the first respondent's husband in O.S.No.691 of 2005 is marked as Ex.P3.

7. A perusal of the deposition of the first respondent's husband would suggest that no where in the evidence, he admitted about the exclusive possession of the petitioners. In fact, he denied the suggestion put to him about the exclusive possession of the petitioners. Therefore, the petitioners failed to establish that they are in exclusive possession of the suit property and hence, the first respondent is deemed to be in joint possession and hence entitled to value the suit under Section 37(2) of the Pondicherry Court Fee and Suit Valuation Act. This court finds no infirmity in the order passed by the court below and hence, this Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

20.10.2022

(1/2)

Index: Yes/No

Web: Yes/No



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S.SOUNTHAR.,J.

gv

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