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C.R.P.No.2703 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2022

CORAM:

THE HONOURABLE **Mr. JUSTICE S.SOUNTHAR**

C.R.P(PD).No.2703 of 2022

and

C.M.P.No.14068 of 2022

Thiru.Senthilvelan.M

.. Petitioner

Vs.

Tmt.Ramya Manoharai.S

.. Respondent

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C., praying to set aside the docket order in I.A.No.1 of 2021 in O.S.No.55 of 2021 pending on the file of the learned I Additional District & Sessions Judge, Vellore on 24.03.2022.

For Petitioner : Mr.C.Murali

O R D E R

This Civil Revision Petition has been filed challenging the order passed by the Court below dismissing the petition to reject the Plaint in I.A.No.1 of 2022 in O.S.No.55 of 2021.



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2. When the matter is taken up for hearing, the learned counsel for the petitioner produced the certified copy of the fair and decreetal order passed in I.A.No.1 of 2021. Initially he filed a docket order. At the request of the learned counsel for the petitioner for production of fair order in I.A.No.1 of 2021, the matter was adjourned, now the same has been produced and taken on record.

3. The respondent being the sister of the petitioner, filed a Suit for partition of half share in the amount deposited by the father of the parties in the State Bank of India, P.K.Puram branch. The revision petitioner herein filed I.A.No.1 of 2021 seeking rejection of Plaint on the ground that the respondent failed to implead the bank which is a necessary party to the Suit and she also failed to furnish description of the Suit property and essential information regarding the payment made to the revision petitioner.

4. The question of non joinder of necessary party, failure to describe the property and the evidence regarding payment received by the revision petitioner etc., are all question of facts which have to be gone into only in a full fledged trial.



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5. It is settled law while considering the petition under Order VII Rule 11

C.P.C. The averment in the Complaint and the Complaint document alone are relevant.

6. The averments in the Complaint disclose the cause of action that the respondent is entitled to maintain the Suit. The points raised by the revision petitioner for the rejection of Complaint cannot be considered at this stage and the ingredients of Order VII Rule 11 of C.P.C., are not at all satisfied. Accordingly, the petition for rejection of Complaint was rightly dismissed by the Court below. I do not find any illegality or irregularity in the order passed by the Court below. Hence, the Civil Revision Petition is dismissed without costs. Consequently, connected miscellaneous petition is also dismissed.

17.10.2022

Index: Yes/ No

Speaking Order / Non-Speaking Order

rpl

To

The I Additional District & Sessions Judge, Vellore.



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S.SOUNTHAR, J.
rpl

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