



C.R.P(PD)No.2286 of 2020
and CMP.No.14334 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD)No.2286 of 2020

and

CMP.No.14334 of 2020

1.Lalitha Devi

2.Suguna Devi

..Petitioners

Vs.

1.Vimala Devi

2.Yamini Devi

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the IA.No.1553 of 2018 in OS.No.609 of 2008 dated 04.11.2020 on the file of the District Munsif at Ambattur.

For Petitioners : Mr.S.Rajeswaran

ORDER

Challenge in this revision is to the order of the Trial Court, dismissing an application filed under Order 7 Rule 11(b) of CPC., seeking rejection of a plaint in a partition suit.



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2. A suit for partition in OS.No.609 of 2008 was filed in the year 2008. The defendants, who are the petitioners had filed a written statement even in the year 2009. Almost at the close of trial, that is, when the defence evidence was being let in, the petitioners came up with an instant application seeking rejection of the plaint on the ground that the valuation of the property is incorrect and that the plaintiffs are not in joint possession. The learned District Munsif rightly rejected the application on the conclusion that these are questions of fact, which will have to be decided after the evidence is complete and in any event, this application has been filed almost at the close of trial, cannot be entertained. I do not see any reason to fault the Trial Court for its conclusion.

3.The power under Order 7 Rule 11 (b) of CPC., to reject a plaint would depend on the Court to coming to conclusion on the valuation and the Court fee payable. These questions according to the Trial court has to be decided only after the completion of trial. Apart from the above, Section 12 of the Court Fees Act requires a party to raise a dispute regarding valuation either in the written statement or at the first hearing of the suit or before



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evidence is recorded on the merits of the claim. Nothing of the above has been followed by the defendants in the case on hand. The plaintiffs evidence is closed and the defendants evidence is being recorded. Hence, I am unable to fault the learned District Munsif for having dismissed the application. This civil revision petition therefore, fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.01.2022

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Index:No
Internet:Yes
Speaking

To-

The District Munsif Court,
Ambattur



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R.SUBRAMANIAN, J.

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