



WEB COPY



C.R.P. (PD) .No.3036 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.3036 of 2021

and

C.M.P.No.21482 of 2021

V.R.Kothandaraman

.. Petitioner

Vs.

1.Jothi

2.Vijayakumar

3.Suresh

4.Veeramani

5.Jayapriya

6.K.Balaji

.. Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, praying to set aside the order dated 31.08.2021 passed by the Hon'ble Sub-Judge Maduranthakam in I.A.No.613 of 2018 in O.S.No.1 of 2018 and consequently reject the plaint.

For Petitioner : Mr.S.Raveekumar

Page No.1/6



C.R.P. (PD) .No.3036 of 2021

ORDER

WEB COPY The petitioner is aggrieved by the dismissal of his application filed under Section 12 of the Tamil Nadu Court Fees and Suits Valuation Act, seeking the Court to frame preliminary issue on the point of valuation.

2. The suit is one for partition. The plaintiffs claims $\frac{1}{2}$ share in the suit properties. The 1st defendant filed the instant application contending that the plaint does not disclose the cause of action and that the plaintiff who is out of possession cannot value the suit under Section 37(2) of the Tamil Nadu Court Fees and Suits Valuation Act. It is also contended that the market value of the property is much higher than what has been stated in the plaint.

3. As regards the dispute regarding possession, the learned trial Judge concluded that the same will have to be decided only at the time of trial and it cannot be subject matter of a preliminary issue. As regards the valuation, the learned trial Judge came to the conclusion that the plaintiff has valued the property as per the guideline value and no material has been placed by



C.R.P. (PD) .No.3036 of 2021

the defendant/ petitioner to show that the guideline value is higher than what has been stated in the plaint. On the above conclusions, the learned trial Judge dismissed the application.

4. Mr.S.Raveekumar, learned counsel appearing for the petitioner would vehemently contend that though the prayer in the application is only with reference to Court fee, in the affidavit filed in support of the application, the defendant has raised grounds which would entail rejection of the plaint under Order VII Rule 11 of the Code of Civil Procedure. Therefore, according to him, the Court must have gone into that question also. The petitioner should be given an opportunity to produce the guideline value.

5. I am unable to agree with the learned counsel on both the grounds. As regards valuation, the petitioner seeks the Court to decide the issue of valuation under Section 12 of the Tamil Nadu Court Fees and Suits Valuation Act. It is for him to place the material before the Court. The petitioner cannot complain that the Court has not looked into the

Page No.3/6



C.R.P. (PD) .No.3036 of 2021

non-existent material. Even now it is open to the petitioner to show that the value of the property is higher and require the plaintiffs to pay further Court fee or to demonstrate that the Court will have no jurisdiction to entertain the suit.

6. The dismissal of this application requiring the court to frame preliminary issue under Section 12 of the Tamil Nadu Court Fees and Suits Valuation Act, would not debar the plaintiffs from showing that the valuation of the property is incorrect and if the correct value is adopted, the Court will loose pecuniary jurisdiction in the suit.

7. As regards the other contention of the counsel regarding rejection of the plaint, the Court cannot be faulted for not going into the question as the prayer in the application was only with reference to valuation and nothing else. It is open to the petitioner to file application under Order VII Rule 11 of the Code of Civil Procedure seeking rejection of the plaint.



C.R.P. (PD) .No.3036 of 2021

8. In view of the above I do not see any merits in this Revision, the

Revision therefore fails and it is accordingly **dismissed**. No costs.

Consequently, the connected miscellaneous petition is closed.

05.01.2022

dsa

Index : No

Speaking order

To

The Sub-Judge Maduranthakam.



WEB COPY



C.R.P. (PD) .No.3036 of 2021

R.SUBRAMANIAN, J.

dsa

C.R.P.(PD).No.3036 of 2021

05.01.2022

Page No.6/6