



C.R.P.Nos.2477 & 3139 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	20.07.2022
PRONOUNCED ON	:	08.11.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.Nos.3139 & 2477 of 2017
and C.M.P.No.11746 of 2017

- 1) Saradhambal
- 2) Ramamurthi
- 3) Srinivasan

.. Petitioners / Defendants
1, 3 and 4 in both C.R.P's

Versus

- 1) Deivanayagam

.. Respondent/ Plaintiff
in both C.R.P's

- 2) Venkatesan
- 3) Rukmani
- 4) Jagadeesan
- 5) Kousalya
- 6) Pachaiyammal
- 7) Dhanalakshmi
- 8) Vatsala

.. Respondents/ Defendants
2, 5 to 10 in both C.R.P's

PRAYER in C.R.P.No.3139 of 2017: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order passed in I.A.No.82 of 2015 in O.S.No.101 of 2014 (on the file of the Principal District Judge, Cuddalore), dated 05.03.2016.



C.R.P.Nos.2477 & 3139 of 2017

PRAYER in C.R.P.No.2477 of 2017: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order passed in unnumbered I.A.No. of 2017 in O.S.No.101 of 2014 (on the file of the Principal District Judge, Cuddalore), dated 10.07.2017.

For Petitioners : Mr.Ashok Menon
in both cases

For R-1 in both : M/s.R.Meenal
cases

For R-4 in C.R.P. : No Appearance
No.2477/2017

For RR4 & 7 in : No Appearance
C.R.P.No.2477/17

COMMON ORDER

C.R.P.No.3139 of 2017 is filed against the fair and decretal order, dated 05.03.2016 passed in I.A.No.82 of 2015 in O.S.No.101 of 2014 on the file of the Principal District Judge, Cuddalore.

2. C.R.P.No.2477 of 2017 is filed against the fair and decretal order, dated 10.07.2017 passed in an unnumbered I.A.No. of 2017 in the above said suit.



C.R.P.Nos.2477 & 3139 of 2017

3. Since the issue involved in both the Civil Revision Petitions are one and the same, they are disposed of by this common order.

4. Today, when the matter was taken up for hearing, with regard to C.R.P.No.2477 of 2017, this Court after perusing the papers found that this is the third petition of its kind, praying for the same relief and therefore, questioned the learned counsel appearing for the petitioners regarding filing of similar petitions for the same relief

5. In reply to the same, the learned counsel for the petitioners submitted that with regard to C.R.P.No.2477 of 2017, he would not press the petition and therefore, prayed for closing the civil revision petition as 'not pressed'. Accordingly, the revision petition in C.R.P.No.2477 of 2017 stands dismissed as 'not pressed'. No costs.

6. The brief facts, that are required for the disposal of the other civil revision petition in C.R.P.No.3139 of 2017, are as follows:-



C.R.P.Nos.2477 & 3139 of 2017

(i). The first respondent herein is the plaintiff in O.S.No.101 of 2014 on the file of the Principal District Judge, Cuddalore. The first respondent has filed the above suit against the petitioners and respondents 2 to 8 herein, for partition and separate possession of 8/35th share in the suit scheduled properties and also for other reliefs.

(ii) Pending suit, the petitioners herein have filed an application under Order 7 Rule 11 of the Civil Procedure Code in I.A.No.82 of 2015, seeking to reject the plaint. However, the Court below has dismissed the said application. Aggrieved by the said order, the petitioners have filed the present civil revision petition.

7. The learned counsel for the petitioners would submit that the Court below ought to have considered the contentions raised by the revision petitioners that there was no cause of action for filing a suit for partition as the properties are self-acquired properties of the first revision petitioner. Further, the first respondent herein, had wrongly valued the suit properties and committed fraud and therefore, the petitioners have filed the application to reject the plaint. Without considering the said facts, the



C.R.P.Nos.2477 & 3139 of 2017

Court be, has erroneously dismissed the application, which is illegal and perverse and the same is liable to be set aside.

8. Per contra, the learned counsel appearing for the first respondent would submit that the Court below after considering the facts and circumstances of the case, has passed a reasoned order and the same needs no interference of this Court and hence, prayed for dismissing the present civil revision petition.

9. I have heard the submissions made on either side and perused the materials available on record.

10. It is well settled principle that in order to invoke the provisions of Order VII Rule 11 of the Civil Procedure Code, the plaint averments alone have to be looked into and the documents filed by the defendants cannot be looked into at the initial stage. Further, the contention made by the petitioners on pecuniary jurisdiction also cannot be decided at the initial stage and the same can be decided only at the time of trial. Considering the above facts, the Court below has declined to accept the plea of the revision



C.R.P.Nos.2477 & 3139 of 2017

petitioners. Therefore, this Court finds no illegality or infirmity in the order passed by the Court below.

11. In the result, this Civil Revision Petition in C.R.P.No.3139 of 2017 stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

08.11.2022

Index : Yes / No
Internet : Yes
sts/pm

To:

- 1) The Principal District Judge, Cuddalore.
- 2) The Section Officer, V.R.Section, High Court, Madras.



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C.R.P.Nos.2477 & 3139 of 2017

J.NISHA BANU, J.,

sts/pm

Common Order made in
C.R.P.Nos.3139 & 2477 of 2017

Dated:
08.11.2022