



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2023

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CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

**C.R.P. (PD)No.1812 of 2019
and C.M.P.No.11910 of 2019**

S.Devika

... Petitioner

Vs.

1.N.Rajeshkanna
2.K.Chakrapani Reddiar (deceased)
3.C.Ramesh

4.Miot Hospital Medical and Educational trust,
rep. by its Chairman Mrs.Malliga Mohandoss
No.4/112, Mount Poonamallee Road
Manapakkam, Chennai-600 089.

5.Amsabai

... Respondents

(5th respondent brought on record as the legal heir
of the deceased 2nd respondent vide order of
this Court dated 16.08.2023 made in C.M.P.
No.17000 of 2023)

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India
against the fair and decreetal order dated 08.03.2019 made in I.A.No.18 of 2018 in
O.S.No.78 of 2016 on the file of the learned District Judge, District Court No.II,

Kancheepuram.

<https://www.mhc.tn.gov.in/judis>



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C.R.P.(PD)No.181:



For Petitioner : Mr.Ravichandran Sundaresan
For R1 : Mr.S.Udayakumar
For RR3 and 4 : No appearance
For R5 : M/s. I.Sajin (LR of R2) proposed party

ORDER

This revision arises against an order passed in I.A.No.18 of 2018 in O.S.No.78 of 2016 by the learned District Judge, District Court No.II, Kancheepuram, dated 08.03.2019.

2. The petitioner before me is the 1st defendant in the suit. She took out an application in I.A.No.18 of 2018 for the purpose of rejection of plaint on two grounds:

(i) The Court fee that was paid has not been done in accordance with Section 7 of the Tamil Nadu Court Fees and Suits Valuation Act (hereinafter referred to as “the Court Fees Act”) and;

(ii) The suit is barred by limitation.

3. On the first issue of valuation, for the purpose of Court fees and jurisdiction, the averments made in the plaint alone matter. The plaint averments show that the property is a Natham land and has valued it on the basis of the provisions under the old Court Fees Act. Under the old unamended Court Fees Act, the valuation must be based 30 times of the valuation in the kist. That is exactly what has been done in the



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present case. Order VII Rule 11 of the Code of Civil Procedure does not afford a ground for rejection of the plaint on the ground of Court fee. It is only, in case, the Court orders deficit Court fee to be paid and deficit Court fee is not paid, the plaint is liable to be rejected. Order VII Rule 11 of C.P.C. does not afford a ground for under valuation of the suit. That aspect is dealt with under Section 12 of the Tamil Nadu Courts Fees and Suits Valuation Act.

4. In so far as the limitation is concerned, the argument of Mr. Ravichandran Sundaresan is that the settlement deed was executed in the year 2012, the plaint has been presented in the year 2016 and therefore, it is barred by limitation.

5. A reading of paragraph No.20 of the plaint discloses that the plaintiff has alleged that he was not aware of the execution of the document and came to know about it, much later, only in the year 2016. Immediately, he has lodged a complaint with the Superintendent of Police in the year 2016 and followed it up with the suit shortly. In any event, the limitation is a mixed question of law and fact, which can be gone into at the time of trial.

6. For application of limitation as a ground for rejection of plaint, a reading of the plaint itself must disclose that the plaint is barred. My reading of the plaint does not lead me to such a conclusion. If the petitioner/1st defendant feels that the suit is



barred, then she might file the appropriate draft issues before the Court raising the issue of limitation. There are triable issues in the suit, whether there was a conspiracy and whether there was land grabbing, which have gone into at the time of trial. Order VII Rule 11 of C.P.C. being a plea in demurrer and I cannot go into the same.

7. With the above observations, the Civil Revision Petition stands dismissed.

No costs. Consequently, connected Miscellaneous Petition is closed.

16.08.2023
(2/2)

Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No

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To

The District Judge, District Court No.II, Kancheepuram.



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V.LAKSHMINARAYANAN,J.

Kj

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