



CRP.No. 2315 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2023

CORAM

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Civil Revision Petition No. 2315 of 2023

and

CMP.No. 14053 of 2023

1.Soundappan
2.Gowri Sankar
3.Loganathan
4.Yuvaraj

... Petitioners

Versus

1.Rajeshwari
2.Jayalakshmi
3.Eshwari
4.Subiramani
5.Saratha
6.Srinivasan
7.Subramani
8.Selvi
9.Navamani
10.Krishnan
11.Ponnusamy
12.Theerthamalai
13.The Branch Manager
Land Development Bank
Dharmapuri.

14. The Branch Manager,
Canara Bank, Bommudi Branch.

... Respondents



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Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, prays to set aside the fair and decretal order dated 12.04.2023 in I.A.No. 1 of 2022 in O.S.No. 75 of 2022 on the file of Additional District Judge, Dharmapuri and consequently, reject the suit in O.S.No. 75 of 2022 on the file of Additional District Judge, Dharmapuri.

For Petitioners : Mr.P. Manikannan

ORDER

This Civil Revision Petition is filed by the defendants challenging the impugned order dated 12.04.2023 in I.A.No. 1 of 2022 in O.S.No. 75 of 2022 on the file of Additional District Court, Dharmapuri.

2. The revision petitioners are the defendants 1, 8, 9 & 10; the respondents 1 to 3 herein are the plaintiffs the respondents 4 to 9 are the defendants 2 to 7 and the respondents 10 to 14 are the defendants 11 to 15 in the Original Suit.

3. The respondents/plaintiffs filed the suit in O.S.No. 75 of 2022 on the file of the learned Additional District Court, Dharmapuri, for partition, declaration of certain registered deeds as null and void and for



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mesne profits. According to the plaintiffs, the suit properties are joint family properties and no partition has been effected till now and the documents created by the defendants are invalid. The plaintiffs have no knowledge about the partition deed and they are entitled to partition in the suit properties.

4. During the pendency of the suit proceedings, the defendants filed I.A.No. 1 of 2022 under Order VII Rule 11 CPC seeking for rejection of the plaint by contending that the plaintiffs are not having any right or title to the suit properties based on the partition deed. The main contention of the revision petitioners is that the partition has already been effected by way of partition deed dated 12.02.1963 among Perumal, Rangaraj and Soundappan and properties were allotted to them separately. The suit was filed by the plaintiffs after a lapse of 60 years from the date of partition, and the said partition deed is not at all valid. After perusing the records, the trial Court rejected the application by holding that there are triable issues involved in this case and the same cannot be decided in a petition filed under Order VII Rule 11 CPC and it can be decided only after trial.



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5. Heard the learned counsel appearing for the petitioners and perused the materials placed before this Court.

6. The revision petitioners seek to reject the plaint mainly by contending that the plaintiffs are not having any right or title to the suit properties, much less to claim of share in the same, since the Partiton Deed, dated 12.02.1963 relied on by the defendants is not conferring any such right on the plaintiffs and on the other hand, it confers only a life time enjoyment of the suit propertis on the plaintiffs. These contentions are raised by the revision petitioners based upon the Partition Deed. Thus, in effect, the petitioners are questioning the title of the plaintiffs over the suit properties. The issue as to whether the said Partition confers any right or title on the plaintiffs, is a triable one and the issues could be answered only after trial, on the basis of the evidence to be adduced by both parties. Therefore, such issues cannot be raised as grounds for rejecting the plaint.

7. It is well setted that the grounds raised in application seeking rejection of the plaint must come within the ambit and scope of the grounds referred to under Order VII Rule 11 CPC. Disputing the title to the suit properties cannot be considered as a ground to entertain an



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application under Order VII Rule 11 CPC, as it is purely a matter for trial,
as already stated.

8. For rejecting the plaint, pleadings in plaint alone have to be
looked into and not the defence of the defendants.

9. Therefore, the trial Court has rightly rejected the application
by holding that such issues raised by the revision petitioners can be
considered only at the time of trial. Hence, this Court is of the view that
there is no infirmity in the impugned order passed by the Court below.
Accordingly, this Civil Revision Petition fails and the same is dismissed.
No costs. Consequently, the connected miscellaneous petition is also
closed.

13.07.2023

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

To

1. The Additional District Judge, Dharmapuri.
2. The Section Officer, V.R.Section, High Court of Madras.



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V.BHAVANI SUBBAROYAN, J

MSM

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