



C.R.P. No. 2231 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.07.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 2231 of 2023

and

C.M.P.No.13549 of 2023

R.K.Saravanakumar

...Petitioner

.Vs.

R.K.Abirami

...Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 03.03.2023 made in I.A.No.1 of 2022 in O.S.No.85 of 2022 on the file of the Subordinate Judge, Dharapuram by allowing the Civil Revision Petition and pass orders.

For Petitioner : Mr.C. Ramaraj



C.R.P. No. 2231 of 2023

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ORDER

This petition is filed to set aside the fair and decreetal order dated 03.03.2023 made in I.A.No.1 of 2022 in O.S.No.85 of 2022 on the file of the Subordinate Judge, Dharapuram.

2. The facts of the case is that there was a property dispute between the petitioner and the respondent, due to which the respondent herein has filed the above suit seeking to sub divide the subject property and allot the share of the respondent herein and to Appoint Advocate commissioner to sub divide the subject property. Whiles, the petitioner herein filed I.A No.1 of 2022 in O.S.No. 85 seeking to reject the plaint filed by the respondent under order 7 Rule 11 of the Code of Civil procedure and the same was dismissed, which is the impugned order herein.

3. The learned counsel for the petitioner submitted that in the impugned order the learned Judge had held that the issue pertaining to misjoinder, non-joinder, joint possession, etc can be dealt only during the trial by letting in appropriate evidence, whereas the prayer sought by the



C.R.P. No. 2231 of 2023

petitioner in the above I.A is to reject the plaint i.e cause of action, which has not be dealt with.. Hence prays to allow this petition.

4. On a perusal of records, it is seen that the original suit was filed for partition. The petitioner filed the above I.A seeking to reject the plaint on the ground that the plaintiff was never in joint possession of the property and the valuation made by the plaintiff under Section 37(2) of the Tamil Nadu (Court fees and suit Valuation) Act is not proper. It is a settled proposition that while dealing with an application under Order 7 Rule 11 only the averments made in the plaint are required to be considered. The defence of the defendants cannot be even looked into. Thus learned Judge after hearing the arguments of both sides and taking into account of the legal provisions has dismissed the application filed by the petitioner and the same is perfectly valid in the eye of law and the same does not require interference by this Court.



C.R.P. No. 2231 of 2023

5. In view of the above, the order passed on 03.03.2023 in

I.A.No.1 of 2022 in O.S.No.85 of 2022 on the file of the Subordinate Judge,
Dharapuram is confirmed. Accordingly this Civil Revision Petition is
dismissed. No order as to costs. Consequently the connected miscellaneous
petition is closed.

11.07.2023

smn

Index : Yes/No

Internet: Yes/No

To.

1. The Subordinate Judge, Dharapuram



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C.R.P. No. 2231 of 2023

V.BHAVANI SUBBAROYAN,J.
Smn

C.R.P. No. 2231 of 2023

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