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C.R.P.No.2688 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.2688 of 2017

and

C.M.P.No.12850 of 2017

Kumaravel

....

Petitioner

Vs

Vijayakumar

....

Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 11.04.2017 made in I.A.No.1602 of 2016 in O.S.No.186 of 2012 on the file of the II Additional District Munsif, Kallakurichi.

For Petitioner : Mr.N.Suresh

For Respondent : M/s.A.L.Gandhimathi

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 11.04.2017 made in I.A.No.1602 of 2016 in O.S.No.186 of 2012 on the file of the II Additional District Munsif, Kallakurichi, thereby dismissing the petition filed for rejection of plaint under Order 7 Rule 11 of CPC.



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2. The revision petitioner is the defendant in the suit filed by the respondent for declaration and injunction in respect of the suit property. The respondent initially filed a suit for bare injunction and after filing, the respondent filed a petition to amend the plaint including declaration in respect of the suit schedule property.

3. The only contention raised by the petitioner is that the suit was not valued under Section 25(b) of Tamil Nadu Court Fees and Suit Valuation Act. Even after amendment, it was originally valued under Section 27(c) Tamil Nadu Court Fees and Suit Valuation Act and as such, the respondent failed to pay the Court fee under Section 25(b) of Tamil Nadu Court Fees and Suit Valuation Act.

4. A perusal of the records reveals that the respondent originally filed a suit for injunction and subsequently amended into one for declaration and injunction. If there is any deficit Court fees and the suit is not valued properly, the Trial Court can very well frame preliminary issue in this regard and decide the same before trying other issues.



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5. In view of the above, this Court finds no infirmity or illegality in the order dated 11.04.2017 made in I.A.No.1602 of 2016 in O.S.No.186 of 2012 on the file of the II Additional District Munsif, Kallakurichi. Accordingly, this Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

04.01.2023

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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To

The II Additional District Munsif,
Kallakurichi.



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G.K.ILANTHIRAIYAN, J.

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