



C.R.P.No.4245 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4245 of 2022

and

C.M.P.No.22277 of 2022

1.P.Thomas

2.P.Jayakumar

3.C.Prakash

... Petitioners

Vs

Athisayam

... Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the Fair and Decretal Order dated in O.S.No.1779 of 2019 on the file of the Court of the II- Additional Subordinate Judge, Coimbatore.

For Petitioners : Mr.T.P.Prabhakaran

For Respondent : Mr.K.Selvakumar



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ORDER

The Civil Revision petition is filed challenging the fair and decretal order dated 12.09.2022, passed in I.A.No.04 of 2022 in O.S.No.1779 of 2019. The revision petitioners are the defendants and the respondent instituted a suit for partition.

2. During the pendency of the suit, the revision petitioners/defendants filed an Interlocutory Application in I.A.No.4 of 2022, under Order VII Rule 11(b) of CPC, to reject the plaint as not maintainable on the ground that the relief claimed is undervalued and the plaintiffs, at the time of examination, deposed that the value of the suit mentioned in the plaint is incorrect and the difference is of about Rs.16.5 lakhs.

3. Based on the deposition of the defendants while examining the plaintiff, the Interlocutory Application to reject the plaint was filed. The Trial Court considered the issues and found that when the plaintiff is



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directed to correct the valuation and the plaintiff fails to do so, then only the
plaint can be rejected under Order VII Rule 11 but not otherwise.

4. With reference to the findings of the Trial Court, it is relevant to consider Order VII Rule 11(b), which enumerates that if the amount of relief that is being demanded by the plaintiff is lesser than the requisite, the plaint can be rejected. Such a claim needs to be corrected within the time which is prescribed by the Court. Such a rejection amounts to the dismissal of the suit. In the present case, no such occurrence happened and the Trial Court found that the petition filed to reject the plaint is not entertainable.

5. The scope of Order VII Rule 11 cannot be expanded beyond the circumstances stipulated under Rule 11. Rule 13 of Order VII contemplates that *"the rejection of the plaint on any of the ground, hereinbefore mentioned shall not of its own force, preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action"*. Holistic reading of the spirit of Order VII Rule 11 and Rule 13 clarifies that, even in case a



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plaint is rejected under Order VII Rule 11(b), the plaintiff is not precluded from instituting a fresh suit on the same cause of action by invoking Order VII Rule 13 of CPC. This being the scope of the Order VII Rule 11 and Rule 13, this Court does not find any infirmity in respect of the findings made by the Trial Court while dismissing the Interlocutory Application filed by the Revision Petitioners.

6. Accordingly, the fair and decretal order dated 12.09.2022, passed in I.A.No.4 of 2022, in O.S. No.1779 of 2019 is confirmed and thus, the Civil Revision Petition in CRP No.4245 of 2022 stands dismissed. However, there shall be no order as to costs. Consequently, the miscellaneous petition is closed.

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27.01.2023

Speaking Order

Internet : Yes

Index: Yes

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II Additional Subordinate Judge, Coimbatore.

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S.M.SUBRAMANIAM, J.

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