



WEB COPY



CRP No.3862 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2023

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

CRP.No.3862 of 2019
and CMP.No.25490 of 2019

T.Subramaniam

..Petitioner

Vs.

1.Palanisamy

2.Rangasamy

3.Sathyamoorthy

4.S.Viswanathan

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order in I.A.No.65 of 2019 in O.S.No.144 of 2018 on the file of Subordinate Judge, Palladam, dated 01.10.2019 and thereby allow the above revision petition.

For Petitioner : Mr.R.Suresh Kumar

For Respondents

For R1 to 3 : Mr.K.Govi Ganesan

For R4 : Mrs.T.Kalpana Devi
for Mr.V.Sivakumar



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ORDER

The civil revision petition has been filed as against the fair and decreetal order dated 01.10.2019 passed in I.A.No.65 of 2019 in O.S.No.144 of 2018 on the file of the Subordinate Judge, Palladam, thereby dismissing the petition under Order 7 Rule 11 to reject the plaint.

2. The petitioner is the first defendant in the suit filed by the respondents 1 to 3 herein for partition. The suit was valued under Section 37(2) of Tamil Nadu Court Fee and Suits Valuation Act and the plaintiff valued the suit property at Rs.6,58,96,000/- and paid Court fees. Admittedly, the respondents 1 to 3 were not in possession of the suit property, the petitioner is in possession and enjoyment of the suit property on the basis of the registered Partition Deed registered vide Doc.No.172 of 1983. The petitioner also produced the guideline value of the property from 01.04.2012 to 08.06.2017 and accordingly, the property was valued at Rs.6,53,96,000/-. Therefore, the respondents 1 to 3 ought to have valued the property and paid the Court fees. However, the Court below dismissed the petition filed for rejection of plaint on the ground that no plaint can be rejected for the reason that it discloses illusory cause of action. In so far as, undervaluation is concerned, no document has been filed by the petitioner. Only based on the evidence this issue could be ascertained.



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3. On perusal of evidence filed in support of the petition shows that the petitioner annexed the original documents 1 to 5, which reveals about the original guideline value and property valuation report which were generated from the official website in respect of the suit schedule properties. That apart, when the defendants come forward with a case pleaded in the written statement questioning the correctness of the valuation of the suit property and payment of Court fee, the Trial Court has to decide it first as preliminary issue before deciding the suit on merits. However, on that ground the plaint cannot be rejected. Therefore, the Trial Court is directed to decide the issue of undervaluation and payment of Court fees as preliminary issue and thereafter, decide the suit on merits.

4. With the above direction, the civil revision petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

11.01.2023

Speaking/Non-speaking order

Index : Yes/No

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G.K.ILANTHIRAIYAN.J.

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To

The Subordinate Judge,
Palladam.

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