



C.R.P.No.4582 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.4582 of 2023

and

C.M.P.No.23798 of 2023

1.Jayaprakashvel

2.Saravanan

... Petitioners

-Vs-

1. Arivoli

2. Kamatchi

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair order and decreetal order passed in I.A.No.260 of 2023 in O.S.No. 438 of 2008 dated 21.09.2023 by the learned Judge Additional District Munsif Court at Tindivanam and consequently allow the relief sought for.

For Petitioners

: Mr.P.Sureshbabu



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ORDER

Challenging the impugned order passed in I.A. No.260 of 2023 in O.S. No.438 of 2008 passed by the learned Addl. District Munsif, Tindivanam, the Revision Petitioners/plaintiffs preferred this Civil Revision Petition.

2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the Revision Petitioners filed an application in I.A.No.260 of 2023 under Sec.151 of C.P.C. praying to permit him to pay only a sum of Rs.6604/- as stamp duty in respect of suit property. But, that application was dismissed by the trial judge holding that as per koorchit, the Revision Petitioners/plaintiffs seeking permission to pay penalty stamp duty for the single item, but in fact, there are number of items covered in the partition suit, however, as per the order of Sub-Collector, he is bound to pay a sum of Rs.5,16,596/-, on the contrary, now, he is ready to pay a sum of Rs.6604/- as such is not permissible under law.



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Challenging the said findings, the revision petitioners preferred this Civil Revision Petition.

4. The learned counsel for Revision Petitioner would submit that though the Sub-Collector had ordered to pay a sum of Rs.5,16,596/-, which covered 28 items as per acquisition proceedings dated 10.08.2019. Now, the present suit is only concerned with item No.11 in Survey No.77/1 in that proceedings. As per the said proceedings, he is entitled to pay only a sum of Rs.6604/- as per the penalty fixed by the revenue authority. But, without considering his submissions, the trial judge erroneously concluded that the revision petitioners have to pay a sum of Rs.5,16,596/-. Hence, he prayed to set aside the findings of trial judge.

5. Records perused. On verification of suit schedule, it reveals that only item No.11 in respect of Survey No.77/1 is concerned, entire items was not found in koorchit. Therefore, the trial judge erroneously concludes that the plaintiff is bound to pay entire penalty for all the items, which is totally erroneous one and the same is liable to be set aside, since because this suit is concerned with only one item, for which he is bound to pay



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only a sum of Rs.6604/-. Accordingly, this Civil Revision Petition is allowed and the findings rendered by the trial judge in I.A.No.260 of 2023 in O.S.No. 438 of 2008 is set aside. The Revision Petitioners/plaintiffs are directed to pay the aforesaid amount within a period of two weeks from the date of receipt of copy of this order. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

11.12.2023

Index : Yes/No
Speaking Order : Yes/No
rpp

To

The Additional District Munsif,
Tindivanam.



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T.V.THAMILSELVI, J.

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