



C.R.P.(MD).No.433 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 04.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(PD)(MD)No.433 of 2019

and

C.M.P(MD) No.2218 of 2019

1. R.Vijayalakshmi
2. Minor R.Sanjai
3. Minor R.Mythili ... Petitioners/Defendants
(Petitioners 2 and 3 represented by their mother
and next friend Vijayalakshmi)

-VS-

S.Mohammed Bilal
represented by his Father/Power Agent,
A.Sheik Dawood,
No.1/62 A, Indhira Nagar,
Pulivalam,
Musiri Taluk,
Tiruchirapalli District. ... Respondent/ Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.No.50 of 2018 on the file of the Principal Subordinate Court, Thuraiyur.

For Petitioners : Mr.R.G.Shankar Ganesh
For Respondent : Mr.M.Saravanan



WEB COPY



C.R.P.(MD).No.433 of 2019

ORDER

The present Civil Revision Petition has been filed by the petitioners under Article 227 of the Constitution of India, to strike off the plaint in O.S.No.50 of 2018 on the file of the Principal Subordinate Court, Thuraiyur.

2. The petitioners herein are the defendants and the respondent herein is the plaintiff before the Court below.

3. For the sake of convenience, the parties will be referred to as per the litigative status before the trial Court.

4. The learned counsel appearing for the petitioners would submit that the suit in O.S.No.50 of 2018 has to be struck off from the file of the Principal Subordinate Court, Thuraiyur, on the ground of under valuation of the suit. He would further submits that, the suit has to be valued under Section 25-A of the Tamil Nadu Court Fees Act. According to the petitioners if that being the case, the suit has to be valued according to the market value qua as per the sale deed, which stands in the name of the respondent. He



C.R.P.(MD).No.433 of 2019

WEB COPY

would further submit that as per the plaintiff sale deed the market value of the suit property is of Rs.81,00,000/- (Rupees Eighty One Lakhs only). Therefore, he would submit that in view of the under valuation of the suit, the same has to be struck off.

5. The learned counsel for the respondent would submit that, the issue of valuation of suit is mixed question of facts and law, and he would further submit that the very prayer for striking off plaint cannot be directly sought for without availing the opportunity before the Court below by taking a preliminary issue in respect of the valuation of the suit. Therefore, he prayed to dismiss the Civil Revision Petition.

6. This Court has given anxious consideration to the submissions of the learned counsel on either side.

7. The sum and substance of the arguments of the learned counsel for the petitioners is that the very suit has been under valued. Further, on mere perusal of the plaint, the same refers that the suit has been valued based upon the guideline value. However, the learned counsel for the petitioners would



C.R.P.(MD).No.433 of 2019

WEB COPY

10. Both side counsels would submit that this case is transferred to the III Additional District Sessions Judge, Tiruchirappalli. Registry is directed to mark copy to both the Court.

11. In the result, this Civil Revision Petition is **disposed of** as indicated above. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

04.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
ebsi

To

1. The Principal Subordinate Court,
Thuraiyur.
2. The III Additional District Sessions Judge,
Tiruchirappalli.



WEB COPY



C.R.P.(MD).No.433 of 2019

C.KUMARAPPAN,J.

ebsi

C.R.P(PD)(MD)No.433 of 2019

04.09.2023