



C.R.P.(MD)No.6 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.09.2023

CORAM:

**THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

C.R.P.(MD)No.6 of 2019

and

C.M.P.(MD)No.28 of 2019

J.Palavendran (Died) ... Petitioner / Petitioner/ 7<sup>th</sup> Defendant

2.Mary Dolar Ruba

3.Jenison

4.Maria Asli Jesika

Petitioners 2to 4 are brought on record as LR's  
of the deceased sole petitioner vide Court order  
dated 22.08.2023, made in CMP(MD)

Nos.10605, 10607 & 10608/2023 ... Petitioners

Vs.

1.George

2.Sivakami

3.Muthammal @ Rathinam

4.Selvi

Respondents 1 to 4/ Respondents 1to 4 /  
Defendants 1 to 4

Muppidathi (Died)

5.Rassiah



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6.Jesu Jeyabalan

Through his power of Attorney Agent,

Jesu Adimy

... Respondents 5&6/ Respondent 6 &7/  
Defendants 6 & 8

7.Muthu

8.Murugan

9.Sivakumar

... Respondents 7to 9/ Respondents 8 to 10/  
Plaintiffs

Prayer: This Civil Revision Petition is filed Article 227 of the Constitution of India, against the fair and decretal order, passed in I.A.No.738 of 2017, in O.S.No.304 of 2011, on the file of the Principal District Munsif, Valliyoor, dated 13.08.2018.

For Petitioners : Mr.N.Vignesh

For Respondents : Mr.Ponkarthikeyan for R3

: Mr.V.Meenakshisundaram for R7 to R9

: No appearance for R5

: R1, R2, R4 & R6 exparte

### **ORDER**

The instant Civil Revision Petition has been filed against the order, passed in I.A.No.738 of 2017, in O.S.No.304 of 2011, on the file of the Principal District Munsif, Valliyoor, dated 13.08.2018.



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2. The revision petitioner/first petitioner herein is the seventh defendant. The seventh defendant has filed an application for rejection of plaint on the ground that the suit has been undervalued.

3. According to the petitioner, by virtue of the settlement deed executed by the father of the plaintiff, the suit property is valued for Rs.10,00,000/- (Rupees Ten Lakhs only). Whereas the plaintiff has valued the suit only for Rs.1,000/- (Rupees Thousand only) under Section 25 (b) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955, (Herein after called “the Act”) therefore, would submit that the very valuation is contrary to the Court Fees Act, which is the ground relied for rejection of the plaint.

4. However, the Court below after considering various aspects, has ultimately dismissed the application and had found that the issue of Court fee could be decided, while the suit finally be disposed of, as the issue of Court fee is mixed question of law and fact.



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5. The learned counsel for the respondents would submit that even as per Order 7 Rule 11 C.P.C., the plaint averments alone should be considered for deciding this application and that on a cumulative reading of the plaint, there are no grounds made out for rejection of plaint. Hence, prayed to dismiss this application.

6. I have given my anxious consideration to the either side submissions.

7. The main objection raised by the learned counsel for the petitioners is that, while perusing the plaint, the prayer sought for, was in respect of declaration and injunction of the property situated in Survey No.1732/3D, 1732/3B, 1732/3A, 1732/3C. The said survey numbers have been described as item Nos.1 to 4, in the description of the property.

8. On perusal of the description of the property, the suit properties are the Agricultural properties. If we consider Section 25 (b) of the Act, the valuation should be according to the market value of the



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suit property. However, the suit has been instituted during 2011.

Therefore, according to the pre-amendment Section 7 of the Act, the market value would be the 30 times of Kist. To substantiate Kist value, the computer patta and kist receipt were submitted along with plaint. However, such document is not available before this Court.

9. Whiles, on persual of the plaint averments, this Court could not find the ground urged by the petitioner that the suit property is valued about Rs.10,00,000/- (Rupees Ten Lakhs only). While considering Order 7 Rule 11 C.P.C., application, what is the essential is the plaint averment and this Court cannot go beyond the plaint averments and rely on some other documents. Hence, the value mentioned in the settlement deed can not be considered at this stage.

10. In view of the above circumstances, this Court is of the firm view that the petitioner has not made out a case under Order 7 Rule 11 of C.P.C. Hence, the order of the Court below is liable to be confirmed.



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11. In the result, the instant Civil Revision Petition stands dismissed . There shall be no order as to cost. Consequently, connected miscellaneous petition is closed.

**04.09.2023**

NCC : Yes/No  
Index :Yes/No  
Ls

To

- 1.The Principal District Munsif,  
Valliyoor,
- 2.The Section Officer,  
VR Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**C.KUMARAPPAN.,J.**

Ls

Order made in

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