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C.R.P.(MD)No.1136 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P.(MD)No.1136 of 2023

and

C.M.P.(MD)No.5446 of 2023

1.S.Latha

2.A.M.Ashokan

.. Petitioners

Versus

Nedumaran

.. Respondent

Prayer :- Petition filed under Article 227 of the Constitution of India, against the order dated 29.08.2022, in I.A.No.3 of 2021 in O.S.No.852 of 2014, on the file of the III Additional District Munsif Court, Tiruchirappalli.

For Petitioners

:

Mr.J.M.Arvind Pawlraj
for Mr.S.B.Kayvin Prince

ORDER

The petitioners are aggrieved by the impugned order dated 29.08.2022, in I.A.No.3 of 2021 in O.S.No.852 of 2014, on the file of the III Additional District Munsif Court, Tiruchirappalli.



2.The petitioners are the defendants in O.S.No.852 of 2014 before the III Additional District Munsif Court, Trichy. In the said suit, the petitioners have filed I.A.No.3 of 2021 for rejection of plaint under Order VII Rule 7 of C.P.C., stating that the Court has no jurisdiction.

3.By the impugned order dated 29.08.2022, the learned III Additional District Munsif, Tiruchirappalli, has dismissed the said application filed by the petitioners. The relevant portion of the impugned order reads as under:-

"8. The power given under order 7 rule 10 and order 7 rule 11 are mutually exclusive, in other words, the Court should be empowered to receive the plaint and if at all the Court is not empowered to receive the plaint, then the Court shall return the plaint under Order 7 Rule 10 of the Code of Civil Procedure. Order 7 Rule 10, states that at any stage of the suit, the plaint can be returned to be presented to the Court where the suit should have been instituted. The words, "at any stage" undoubtedly by plain reading convey that it can be returned, even at the stage of argument, and as such if at all a lacuna is found to be on the part of jurisdiction this court can very well return the plaint at any stage.

9.In the application for rejection of the plaint filed by the Petitioners/defendant under Order 7 Rule 11 C.P.C.. the Petitioners questioned the pecuniary jurisdiction of this Court. The pecuniary jurisdiction is left open to be decided as a preliminary issue under Order 14 Rule 2 of C.P.C., after appreciating the evidence to be let in by the respective parties in trial and cannot be decided in this application under Order 7 Rule 11 of C.P.C.

10. In this eventuality, this court is of the view that the prayer sought for by the Petitioners for rejection of plaint under order 7 rule 11 by the Petitioners/defendant cannot be granted. Therefore this court is not inclined to allow this petition in the interest of justice and accordingly this Interlocutory Application is dismissed."



4.It is submitted that the suit has been filed for declaration and permanent injunction and that the plaint was under-valued. It is further submitted that the Government guideline value of the property is Rs.20,02,84,440/- and therefore, appropriate Court fee that is to be paid by the respondent/plaintiff is Rs.1,50,21,333/-. Whereas the respondent/plaintiff has paid only a sum of Rs.75.50 as Court fee.

5.I have heard the arguments advanced by the learned counsel appearing for the petitioners and perused the materials available on record.

6.At this juncture, it is relevant to extract below Order VII Rule 11 of C.P.C.

"11.Rejection of plaint. - The plaint shall be rejected in the following cases-

- (a) where it does not disclose a cause of action;*
- (b) where the relief claimed is under-valued, and the plaintiff, on being required by the Court to so correct the valuation within a time to be fixed by the Court, fails to do so;*
- (c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;*
- (d) where the suit appears from the statement in the plaint to be barred by any law;*
- (e) where it is not filed in duplicate;*
- (f) where the plaintiff fails to comply with the provisions of rule 9:*

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-papers shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-papers, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff."



7.The question of rejecting the plaint under Order VII Rule 11(b) of C.P.C. would arise only where the relief claimed is under-valued, and the plaintiff, on being required by the Court to pay the correct Court fee on the valuation within a time to be fixed by the Court, fails to do so.

8.In this case, admittedly, the Court has not come to the conclusion that the plaint is under-valued. Consequently, the question of rejecting the plaint under Order VII Rule 11(b) of C.P.C. does not arise. If it is the case of the petitioners that the suit is without jurisdiction, it is to be dealt with under Order VII Rule 10 of C.P.C. for proper presentation before the Court of competent jurisdiction.

9.In view of the above discussion, I do not find any merit in the present Civil Revision Petition challenging the impugned order, dated 29.08.2022, passed in I.A.No.3 of 2021 in O.S.No.852 of 2014, by the learned III Additional District Munsif, Tiruchirappalli. Consequently, the present Civil Revision Petition is dismissed. All the issues relating to valuation of the suit property is left open to be canvassed by the petitioners at the time of arguments after the Trial. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
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The III Additional District Munsif,
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C.SARAVANAN, J.

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Order made in
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