



C.R.P(MD)No.1922 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

C.R.P(MD)No.1922 of 2019

1.K.Arockiyadass

2.G.Emelda

... Petitioners / Plaintiffs

.Vs.

1.K.Bharathidasan

2.B.Vincent

3.N.Ramesh

4.N.Ganesan

5.N.Sambasivam

... Respondents / Defendants

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, set aside the order dated 04.01.2017 passed in O.S.No.137 of 2011 on the file of the Principal District Munsif and Judicial Magistrate Court, Lalgudi, Trichirappalli.

For Petitioner : Mr.V.Illanchezian

For Respondents : Mr.J.Lenin Kumar for R1

: No appearance for R2 to R5



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ORDER

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The Civil Revision Petition is filed at the instance of the plaintiffs.

The suit has been filed for the relief of declaration and for consequential relief of mandatory injunction directing the defendants 1, 3, 4 & 5 to execute the sale deed in favour of the plaintiffs with regard to the suit property.

2. The trial Court *suo-motu* issued a Check Slip in D.No.1072 dated 29.09.2016 calling upon the plaintiffs to show cause or give explanation as to why the relief ought not to be valued under Section 25 (b) of the Tamil Nadu Court Fees Act. The plaintiffs also gave their explanations/objections, in pursuance of which, the trial Court has held that the relief of mandatory injunction cannot be styled as a consequential relief and the said relief has to be valued independently and appropriate Court fee to be paid in accordance with law. Aggrieved by the said order, the plaintiffs/petitioners have preferred the present revision.

3. I have heard the learned counsel for the petitioners and the learned counsel for the respondents.



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4. Admittedly, the relief sought for by the plaintiffs is for declaration of title. However, despite the comprehensive prayer for declaration of title, a specific decree is sought for against some of the defendants namely, the defendants 1, 3, 4 & 5 in the nature of a mandatory injunction to direct these defendants to execute a sale deed in favour of the plaintiffs, with regard to the suit property.

5. The trial Court has rightly applied the ratio of the Hon'ble Supreme Court Judgment in **Shamsher Singh Vs. Rajendar Prasad and Others** reported in **AIR 1973 SC 2384** and held that the valuation of the relief of mandatory injunction directing the defendants 1, 3, 4 & 5 to execute the sale deed in favour of the plaintiffs is not proper and for consequential relief of mandatory injunction, appropriate Court fee be paid by the plaintiffs. I find no infirmity in the order passed by the trial Court.

6. The learned counsel for the petitioners, at this juncture, would state that they would pay the appropriate Court fee subject to reason time granted by this Court.



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7. The petitioners/plaintiffs shall value the relief of mandatory injunction and pay the appropriate Court fee within a period of six weeks from the date of receipt of a copy of this order. The trial Court, thereafter, is directed to proceed with the suit in accordance with law. Considering that the suit is of the year 2011, this Court directs the trial Court to take up the trial and decide the suit as expeditiously as possible, preferably on or before 30.04.2024, in accordance with law.

8. With the above observation, the Civil Revision Petition is dismissed. There shall be no order as to costs.

04.12.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
dss



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P.B.BALAJI,J.

dss

To

1. The Principal District Munsif and Judicial Magistrate Court,
Lalgudi, Trichirappalli.

2. .The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

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