



CRP(MD).No.2688 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.203

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THE HON'BLE MR.JUSTICE *C.KUMARAPPAN*

CRP(PD)(MD).No. 2688 of 2018 and
CMP(MD).No.11798 of 2018

S. Solaisundaram

Petitioner

Vs.

1.Dhanuskodi
2.Karuppasamy

Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records and set aside the fair and decreetal order passed in I.A.No.48 of 2017 in O.S.No.05 of of 2017, dated 13.08.2017 on the file of the learned Principal District Munsif Cum Judicial Magistrate, Vilathikulam.

For Petitioner : Mr.K.K.Samy

For Respondents : Mr.M.Mohammed Ibrahim Saibu
for M/s. Ajmal Associates



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ORDER

This Civil Revision Petition has been filed against the fair and decretal order, dated 13.08.2017 passed in I.A.No.48 of 2017 in O.S.No. 05 of 2017, on the file of the learned Principal District Munsif Cum Judicial Magistrate, Vilathikulam.

2. The revision petitioner herein is the petitioner / defendant before the Court below. The respondents herein are the respondents / plaintiffs before the Court below.

3. It appears that the respondents / plaintiffs have filed a suit in O.S.No.5 of 2017 on the file of the learned Principal District Munsif-Cum-Judicial Magistrate, Vilathikulam for partition. In the said suit, the revision petitioner / defendant has filed an application under Order 7 Rule 11 CPC for rejection of the plaint on the ground that the suit is under valued.

4. In this regard, the learned counsel appearing for the revision petitioner / defendant would contend that according to the Registration Department, the guideline value of the property is Rs.1,21,408/- per acre



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and the market value of the property is Rs.4,50,000/- per acre. However, the respondents / plaintiffs have under valued the suit property and therefore, prayed for rejection of the plaint under Order VII Rule 11 CPC.

5. However, the learned counsel appearing for the plaintiffs / respondents strongly objected the said contention of the revision petitioner and stated that the value of the suit property was calculated as per the Tamil Nadu Court-Fess and Suit Valuation Act, 1965 and he would further submit that when the application is being considered under Order VII Rule 11 CPC, no documents, except the plaint pleadings and plaint documents, could be seen for the final disposal.

6. Per contra, the learned counsel appearing for the defendant / revision petitioner urged this Court to see the guideline value. He would further submit that as per the plaint valuation, the value of the suit property is not correct. However, the Court below found that there was no undervaluation and has dismissed the application filed by the petitioner.

7. I have given my anxious consideration to the submissions of the learned counsel appearing on either side and perused the materials



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available on record.

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8. It is settled principles of law that whenever an application is being agitated under Order VII Rule 11 CPC, the Court must only see the plaint pleadings. On perusal of the plaint pleadings it is seen that the respondents / plaintiffs have stated about the joint possession of the suit property and has also valued the suit under Section 37 (2) of the Tamil Nadu Court Fees and Suits Valuation Act, 1965 and paid fixed Court Fee of Rs.100/-. Though the learned counsel appearing for the revision petitioner / defendant would urge this Court by referring the guideline value and also by inviting the attention of this Court based on Ex.P1, this Court is of the view that as per Order VII Rule 11 CPC, the Court cannot go beyond the plaint pleadings and plaint documents. Therefore, the trial Court has rightly dismissed the application.

9. This Court is of the firm view that the plaintiffs have valued the suit property as per the plaint pleadings under Section 37 (2) of the Tamil Nadu Court Fees and Suits Valuation Act, 1965. It is relevant to refer the judgment of the Hon'ble Supreme Court reported in **2023 (3)**



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MLJ 200 (Prem Kishore Vs. Brahim Prakash) wherein at Para 33 it has

been held as follows:

“33. On a perusal of the above authorities, the guiding principles for deciding an application under Order 7 Rule 11(d) of the CPC can be summarized as follows:-

(i) To reject a plaint on the ground that the suit is barred by any law, only the averments in the plaint will have to be referred to;

(ii) The defence made by the defendant in the suit must not be considered while deciding the merits of the application;

(iii) To determine whether a suit is barred by res judicata, it is necessary that (i) the ‘previous suit’ is decided, (ii) the issues in the subsequent suit were directly and substantially in issue in the former suit; (iii) the former suit was between the same parties or parties through whom they claim, litigating under the same title; and (iv) that these issues were adjudicated and finally decided by a court competent to try the subsequent suit; and

(iv) Since an adjudication of the plea of res judicata requires consideration of the pleadings, issues and decision in the ‘previous suit’, such a plea will be beyond the scope of Order 7 Rule 11 (d), where only the statements in the plaint will have to be perused.”

10. Based upon the above Judgment, whenever the revision



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petitioner urged this Court to rely upon the other documents that cannot be considered under Order VII Rule 11 CPC.

11. In the result, this Civil Revision Petition is dismissed by confirming the order, dated 13.08.2017 passed in I.A.No.48 of 2017 in O.S.No.05 of 2017, on the file of the learned Principal District Munsif Cum Judicial Magistrate, Vilathikulam. No costs. Consequently, the connected Miscellaneous Petition is closed.

16.08.2023

Index : Yes / No
Internet : Yes / No
trp

To

The Principal District Munsif Cum Judicial Magistrate, Vilathikulam.



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C.KUMARAPPAN, J.,

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