



C.R.P.(MD)No.3077 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATE : 15.12.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.3077 of 2023

and

C.M.P.(MD)No.15879 of 2023

V.Arunachalam : Petitioner/Petitioner/5th Defendant

Vs.

P.Saraswathy : Respondent/Respondent/Plaintiff

Prayer : This Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 29.09.2023 passed in I.A.No.3 of 2023 in O.S.No.18 of 2019 on the file of the District Court, Dindigul.

For Petitioner : Mr.C.Narendran,
for Mr.M.Rajarajan

ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.3 of 2023 in O.S.No.18 of 2019, dated 29.09.2023 on the file of the District Court, Dindigul, dismissing the petition filed under Order VII Rule 11(b) C.P.C.



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2. The respondent/plaintiff has filed the above suit for partition and to declare that the two registered gift settlement deeds and registered mortgage deed as null and void and not binding on the plaintiff and for permanent injunction restraining the defendants and their men from in any way alienate the plaintiff's share in the suit schedule properties.

3. When the case was pending for D.W.1 cross examination, the above petition came to be filed for rejection of plaint.

4. The main contention of the revision petitioner is that the plaintiff has filed the suit for partition under Section 37 (1) of the Tamil Nadu Court Fees and Suits Valuation Act, that there is no plea for joint possession of the suit property in the plaint and as such, the plaintiff is liable to pay Court fee under Section 37 of the said Act; that the suit is defective for non payment of proper Court fee and that therefore, the plaint has to be rejected under Order 7 Rule 11(b) C.P.C.



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5. Section (12) (2) of the Tamil Nadu Court Fees and Suits Valuation Act contemplates that any defendant may, by their written statement filed before the first hearing of the suit or before evidence is recorded on the merits of the claim but, subject to the next succeeding sub-section, not later, plead that the subject-matter of the suit has not been properly valued or that the fee paid is not sufficient and that all questions arising on such pleas shall be heard and decided before evidence is recorded affecting such defendant, on the merits of the claim.

6. As already pointed out, in the present case, the trial has already been commenced and when the case was pending for defendant side evidence, the above petition came to be filed. Moreover, the learned Principal District Judge, by observing that the above petition has been filed only to drag on the suit proceedings and that deciding the question of law with regard to the payment of Court fee at this stage does not arise, dismissed the petition.

7. Considering the above facts and circumstances of the case, the impugned order dismissing the petition for rejection of plaint cannot be



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found fault with. Hence, this Court concludes that the Civil Revision is devoid of merits and the same is liable to be dismissed.

8. In the result, the Civil Revision Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

15.12.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
das

To

1.The District Court, Dindigul.

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



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K.MURALI SHANKAR,J.

das

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