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C.R.P.(PD).No.840 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2024

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.840 of 2024

and

C.M.P. No.4165 of 2024

R.Prabhakaran

..Petitioner/ plaintiff

Vs.

R.Janarthan

..Respondent/ Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 25.09.2023 in I.A.No.4 of 2022 in O.S.No.426 of 2022 on the file of the IV Additional District Court Thiruvallur at Ponneri and allow the petition in I.A.No.4 of 2022.

For Petitioner : Mr.G.A.Thiyagarajan

For Respondent : Mr.T.V.Ramanujam
Senior Counsel
for Ms.R.Ramya



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for sole Respondent

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ORDER

This Civil Revision Petition challenges the order passed by the learned IV Additional District Judge, Ponneri in O.S.No.426 of 2022 dated 25.09.2023. O.S.No.426 of 2022 is a suit for specific performance of an agreement of sale entered into between the plaintiff and the defendant.

2. The plaintiff would plead that three items of the Suit property were agreed to be sold by the defendant for a sum of Rs.68,88,000/-. This was by way of a registered agreement dated 07.11.2019 registered as Document No.7695 of 2019 on the file of the Sub-Registrar, Ponneri.

3. On service of summons, the defendant entered appearance and filed a detailed written statement along with the counter claim. The present revision only relates to Court fee on counter claim.



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4. The defendant would plead that the contract entered into on 07.11.2019 has to be rescinded on the ground of fraud and misrepresentation.

5. On being served with the counter claim, the plaintiff took up an application on Order VII Rule 11 seeking for rejection of the counter claim. It was argued before the Trial Court that the valuation should be under Section 40 on the value of the sale consideration and not merely on the amount received on the agreement.

6. After a counter was filed by the defendant, the learned Judge came to the conclusion that the rejection of plaint application does not deserve consideration and dismissed the same. Against which the present Civil Revision Petition.

7. Heard Mr.G.A.Thiagarajan for the Civil Revision Petitioner and Mr.T.V.Ramanujam, Senior Counsel for Mr.R.Ramya appearing for the defendant.



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8. The narration of the aforesaid facts would show that the application under Order VII Rule 11 seeks for rejection of the counter claim on the basis of valuation. Under Order VII Rule 11, the plaint cannot be rejected straight away on the allegation of payment of inadequate court fee. In order to reject the plaint, there must be a prior order of the Court holding that there has been undervaluation. The Court should have granted time to the parties to make good the valuation and the concerned party should have defaulted in payment of the Court fee. However, that is not the situation in the present case. The issue of court fee cannot go straightaway under Order VII Rule 11 of CPC. The remedy for a party in such a case is to file an application invoking Section 12 of the Tamil Nadu Court Fees and Suit Valuation Act, 1965. If the Court agrees with the applicant and orders payment of Court fee, and the concerned party does not make good the deficiency, only then Order 7 Rule 11 of CPC comes into operation. Furthermore, I have to add that since the Suit is pending before the IV Additional District Court, which is the Court of unlimited pecuniary jurisdiction, the issue of jurisdiction does not arise. In such matters, the court fee is exclusively between the



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court and the party. Leaving it open to the Civil Revision Petitioner to file an appropriate application under Section 12(2) of the Tamil Nadu Court Fees and Suit Valuation Act, 1965, if he so desires, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

19.08.2024

Speaking (or) Non Speaking Order
Index:Yes/No
Neutral Citation: Yes/No
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V.LAKSHMINARAYANAN, J.

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To:
The IV Additional District Judge,
Thiruvallur, Ponneri.

C.R.P.(PD).No.840 of 2024
and
C.M.P. No.4165 of 2024

19.08.2024