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CRP No.903 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP No.903 of 2024

CMP No.4477 of 2024

K.Kumaravel

... Petitioner

Vs.

1. P.Selvaraj

2. P.Soundararaj

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed in I.A.No.2/2023 in O.S.No.917/2019, dated 01.11.2023 by the IV Additional District Munsif, Coimbatore.

For Petitioner

: Mr.S.Surya

ORDER

This Civil Revision Petition has been filed to set aside the order passed in I.A.No.2/2023 in O.S.No.917/2019, dated 01.11.2023 by the IV Additional District Munsif, Coimbatore.

2. The petitioner herein is the first defendant and the respondents



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herein are the plaintiffs in the above said suit. The respondents/plaintiffs filed the suit against the defendants 1 to 3 to declare that the sale deed executed by Alamelammal and Palaniammal in favour of the plaintiffs and registered as document No.3075/1983 in the office of the Sub Registrar, Coimbatore is true and genuine and it can be acted upon; and for mandatory injunctions directing the defendants 2 and 3 to restore the names of the plaintiffs in the property tax and water tax book and also in the electricity service connection No.253-002-502, in respect of the suit property. In the above said suit, the petitioner has filed an application in I.A.No.2/2023 in O.S.No.917/2019 seeking to reject the plaint on the ground of resjudicata, court fee and pecuniary jurisdiction and the same was dismissed by the learned Judge, by passing the impugned order. Challenging the same, the present civil revision petition has been filed.

3. The learned counsel for the petitioner submitted that the respondents/plaintiffs filed the suit for declaration that the sale deed executed by Alameluammal and Palaniammal in favour of the plaintiffs is



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true and genuine. Therefore, as per the prevailing market value of the properties, viz., Rs.35,00,000/- the court fees has to be paid under Section 25(b) of the Tamil Nadu Court Fees and Suit Valuation Act. But the petitioner has paid court fees under Section 25(d) of the Tamil Nadu Court Fees and Suits Valuation Act, which is lessor court fees and hence, on this ground the plaint has to be rejected. He further submitted that, the said Alamelammal had no title over the property to execute the sale deed in favour of the plaintiffs and this issue was already considered in S.A.No.904/2002 and S.A.No.70/2004 and it was dismissed. The learned counsel also submitted that the respondents have filed an application under Section 47 of CPC in E.P.No.280/2014 in O.S.No.134/2014 and the same was dismissed by the learned II Additional Subordinate Judge, Coimbatore. Therefore, the present suit filed by the respondents/plaintiffs is suffered by resjudicata and also the Trial court has no pecuniary jurisdiction to entertain the suit and hence, the plaint has to be rejected.

4. Heard the learned counsel for the petitioner and I have perused the



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materials on record.

5. According to the petitioner/first defendant, the above said Alameluammal, from whom the plaintiffs purchased the suit property, has no right over the property and hence, the sale deed executed by her in favour of the respondents/plaintiffs is not valid. It is the further contention of the petitioner that, the respondents/plaintiffs had filed a petition under Section 47 of CPC in E.P.No.280/2014 in O.S.No.134/2014 and the same was dismissed by the learned II Additional Subordinate Judge, Coimbatore and since the issue involved in the suit was already considered in S.A.No.904/2002 and S.A.No.70/2004, the present suit is hit by resjudicata. Further, since the market value of the property is more than Rs.35,00,000/- the court has no pecuniary jurisdiction to try the suit.

6. According to the petitioner, he is the owner of the suit property and Alameluammal has no right over the property to sell the property to the plaintiffs. As far as the rival claim of title over the property is concerned, it



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has to be adjudicated by letting evidence as to whether the Alameluammal was having right to sell the same property to the plaintiffs otherwise, who is having right over the property. Further, in the plaint, the plaintiffs sought declaratory relief to declare that the sale deed executed by the said Alameluammal and Palaniammal in favour of the plaintiffs is genuine and valid. Since there is a rival claim made by both the parties with regard to the title over the property, there is a cause of action to adjudicate the above lis. As far as the payment of court fee is concerned, if the court is satisfied with regard to the prayer of declaration of the sale deed, in which the plaintiffs were party to the document, for mere declaration relief, the court fees paid by the respondents/plaintiff is sustainable. Apart from this, the respondents/plaintiffs sought the reliefs against the defendants 2 and 3 also. Therefore, partial rejection of plaint is impermissible in law. On this ground also, the petitioner has no case for rejection of plaint. Further, all the grounds raised by the petitioner were considered and a detailed and well reasoning order was passed by the learned Judge. As such, I do not find any infirmity on the impugned order to interfere over the same. Hence, the civil revision petition



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is liable to be dismissed, as it has no merits.

7. Accordingly, the civil revision petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Internet: Yes/No
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To

The IV Additional District Munsif, Coimbatore.



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V.SIVAGNANAM, J.,

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