



CRP.No.4293 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

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1.Sharath Mohan Prabhu
2.Sasidhara Prabhu

... Petitioners

Vs.

1.Vimala Dharmalingam
2.Dharmalingam
3.Vijay Isaac
4.J.Deepthi
5.Kanmani Srinivasan
6.Vijaya Bank
rep.by Chief Manager
Gandhi Nagar 1st main
Road, Adyar, Chennai 20.

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 28.04.2011 passed in IA.No.17752 of 2008 in OS.No.3286 of 2008 on the file of the XVII Assistant City Civil Court, Madras, by ordering the Civil Revision Petition.

For Petitioners : Mr.R.Shanmugham
For Respondents : Mr.J.Kamraj for R1 & R2



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R3 to R6 – Dismissed

ORDER

This Civil Revision Petition is filed challenging the order passed by the Court below dismissing the application filed by the petitioners seeking rejection of the plaint.

2. The respondents 1 & 2 filed a suit for declaration that the sale deed dated 29.12.1997 executed by the second defendant in favour of the third defendant was null and void and also for declaration declaring the construction agreement alleged to have been executed by one Joseph Issac in favour of the third defendant was null and void and also for declaration declaring the sale certificate dated 21.03.2007 issued by the fourth defendant in favour of the defendants 5 & 6 as null and void and not binding on the plaintiffs and also for permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the suit property.

3. The petitioners who were arrayed as defendants 5 & 6 in the suit filed application for rejection of the plaint on the ground that the suit was



not properly valued. It is the case of the petitioners that the respondents 1 & 2/plaintiffs seeking declaration of title in respect of the immovable property is required to value the suit under Section 25(a) of the Tamil Nadu Court Fees and Suits Valuation Act, and required to pay ad valorem Court fee on the market value of the suit property. However, in the case on hand, the plaintiffs wrongly valued the suit under Section 25(d) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 and paid Court fee on minimum valuation.

4. The learned counsel for the petitioners by taking this Court to the interim order granted by this Court on 28.04.2011 submitted that this Court already directed the respondents 1 & 2/plaintiffs to pay ad valorem Court fee and the same has not been complied with.

5. A reading of the order passed by this Court on 28.04.2011 would indicate that this Court only recorded the submission made by the counsel for the petitioners and granted interim order. No direction was issued to the respondents to pay any ad valorem Court fee. Further, this is not a suit seeking declaration of title in respect of immovable property. The respondents



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1 & 2 are seeking a declaration that the sale deed executed by the second defendant in favour of the third defendant was null and void. There is no prayer for declaration of title and consequential injunction and hence there is no need to value the suit claim on the market value of the suit property and pay Court fee. The declaration sought for is not relating to property but relating to certain instruments. Hence, it will not fall under Section 25 (a) or (b) of the Tamil Nadu Court Fees Act.

6. Having regard to the prayer made in the suit, the plaintiffs rightly valued the suit under Section 25 (d) of the Tamil Nadu Court Fees and Suits Valuation Act and paid the Court fee on minimum valuation. I do not find any illegality or irregularity in the order passed by the Court below and accordingly the Civil Revision Petition is dismissed. Having regard to the fact that the suit is of the year 2008, the Court below is directed to dispose of the suit as expeditiously as possible. No costs.

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Index : Yes / No

Internet : Yes / No

dna

4/6



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To

The XVII Assistant City Civil Court, Madras.



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S.SOUNTHAR, J.

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