



CRP.No.1096 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1096 of 2021
and
C.M.P.No.8534 of 2021

Sivachandran

... Petitioner

Vs.

Chitra

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal orders dated 12.09.2019 passed in IA.No.513 of 2018 in OS.No.224 of 2012 before the Additional District Munsif Court, Tittakudi.

For Petitioner : Mr.T.Sezhian
for Ms.R.Meenal

For Respondent : Mr.R.Veeramani



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ORDER

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This Civil Revision Petition is filed challenging the order passed by the Court below dismissing the application filed by the petitioner seeking leave of the Court to file additional written statement.

2. The respondent herein filed a suit for declaration of title and injunction. The petitioner/fourth defendant already filed a written statement denying various averments found in the plaint. The trial in the suit has already commenced and the suit is posted for examination of defendant's side evidence. At this stage, the present application has been filed by the petitioner/fourth defendant seeking leave of the Court to file additional written statement. In the additional written statement filed along with petition it was stated by the petitioner that item 3 of the suit property was not properly valued and if it is valued properly, the same would be out of pecuniary jurisdiction of the Court.



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3. In the affidavit filed in support of this petition it is stated by the petitioner that his earlier counsel failed to raise the points regarding valuation of the suit item No.3. Therefore, as per the advice tendered by his present counsel, the instant application seeking leave of the Court to file additional written statement disputing the valuation adopted by the plaintiff is filed.

4. It is seen from the impugned order the petitioner filed his written statement on 14.03.2014. Thereafter, the plaint was amended and the petitioner was given an opportunity to file additional written statement. On 18.02.2017 the petitioner made an endorsement stating that there was no additional written statement. Therefore, the issues were framed and the trial commenced. The plaintiff examined three witnesses and on the side of the defendant two witnesses were already examined. When the matter is posted for further evidence on the side of the defendants, the petitioner has come up with this application seeking leave of the Court to file additional written statement. In the affidavit filed in support of the petition, the revision



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petitioner has not mentioned any convincing reason for his failure to file additional written statement, till examination of DW2. The present application has been filed at the end of the trial without any justification.

5. Therefore, the Court below rightly dismissed the application on the ground that there is no bonafides on the part of the petitioner and the present application has been filed only to protract the suit. Further any objection as to pecuniary jurisdiction shall be raised at or before settlement of issues. Hence, I do not find any illegality or irregularity in the order passed by the Court below and accordingly, this Civil Revision Petition is dismissed. It is made clear, it is always open to the Court to decide the correctness of the valuation adopted by the respondent/plaintiff at the time of final disposal of suit. No costs. Consequently, connected Miscellaneous Petition is closed.

09.01.2024

Index : Yes / No
Internet : Yes / No
dna



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WEB COPY **To**

The Additional District Munsif Court, Tittakudi.



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S.SOUNTHAR , J.

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