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C.R.P.(PD).No.1916 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.1916 of 2020

1.V.Gurusamy (died)

2.G.Vijayalakshmi

3.V.G.Janani

4.G.Ashwin

[Petitioners 2 to 4 residing at S.F.No.14, Kathir Layout, 1st Street,
Kangeyam Road, Tiruppur Taluk, Tiruppur (sole petitioner died.

Petitioners 2 to 4 brought on record as Lrs of the deceased sole
petitioner viz., Gurusamy vide Court order dated 04.01.2023

made in CMP.Nos.103, 104 and 106 of 2023

in CRP.No.1916 of 2020 by VBSJ)

... Petitioners

vs.

1.A.Subramaniam

2.S.Saraswathi

3.P.Samiappa Gounder

4.S.Ammasaiammal

5.S.Duraisami

6.Saraswathi

7.V.Arunachalam

8.M.Gomathi

9.S.Muthusami

10.P.Santhamani

11.S.Palanisami

... Respondents



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Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decreetal order of the Principal Subordinate Judge's Court, Tiruppur, dated 19.02.2020 in I.A.No.430 of 2019 in O.S.No.571 of 2011.

For Petitioners : Mr.P.Valliappan
for Mr.T.Deeraj

For Respondents :Mr.V.Nicholas for R1 to R4
No appearance for R5 to R11

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ORDER

The respondents 1 to 5 filed a suit for partition against other respondents. The petitioner herein filed an impleading application and got himself impleaded as 7th defendant in the suit and thereafter filed the present application seeking rejection of the plaint in I.A.No.260 of 2017. In the affidavit filed in support of the petition to reject the plaint, it was contended by the petitioners that the respondents entered into three separate sale agreements in respect of the suit property on 27.12.1994 agreeing to convey the suit property in favour of the petitioners. The petitioners also contended that the petitioners paid a sum of Rs.96,94,000/- on various dates



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in favour in the respondents and the respondents also gave receipts after having received the same. It was also contended by the petitioners in respect of portion of the suit property, a sale deed was executed in favour of petitioners on 01.12.2011 by defendants in the suit namely the respondents 6 to 11. Therefore, claiming right over the suit property under the sale agreement and also the sale deed, the petitioners herein sought for rejection of the plaint.

2. It is settled law, the petition for rejection of the plaint shall be considered only based on the averments found in the plaint and the plaint documents. At the time of considering the petition for rejection of the plaint, the Court cannot look into the defence raised by the defendants or the documents filed by the defendants in support of their averments. In the case on hand, the petitioners herein wants to non-suit the respondents based on the three sale agreements dated 27.12.1994 and sale deed dated 01.12.2021 in respect of portion of the property. Whether, the petitioners entered into sale agreement with the respondents in respect of the suit property and whether the petitioners paid substantial portion of the sale consideration to the



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respondents etc., are all disputed questions of fact, which have to be decided at the time of trial and while considering the petition for rejection of plaint, the Court cannot rely on the documents produced by the petitioners. Therefore, the Court below rightly dismissed the petition for rejection of plaint.

3. Having regard to the fact that the suit is of the year 2011, this Court is inclined to issue a direction to the trial Court to dispose of the same as expeditiously as possible.

4. I do not find any infirmity in the order passed by the Court below. The Civil Revision Petition stands dismissed. No costs.

09.01.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

The Principal Subordinate Judge's Court,
Tiruppur.



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S.SOUNTHAR, J.

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