



C.R.P.(PD).No.2660 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.2660 of 2021
and C.M.P.No.19604 of 2021

1.Senthilkumar

2.R.Senthil

... Petitioners

VS

Kondappan

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to allow the Civil Revision Petition, by setting aside, the docket order dated 06.09.2021, passed in I.A.No. 119 of 2018 in O.S.No.57 of 2018, on the file of the Subordinate Judge, Paramathy.

For Petitioners : Mr.S.Senthil

For Respondent : No Appearance

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below appointing an Advocate Commissioner to value the suit property along with PWD Engineer.



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2. The petitioners herein filed a suit for specific performance of the suit sale agreement. Earlier, the defendants filed an application for appointment of Advocate Commissioner to value the building stands in the agreement mentioned property with the help of PWD Engineer. The said application was dismissed by the Court below. Aggrieved by the same, the respondent herein preferred civil revision petition in CRP.PD.No.3231 of 2018 and the same was disposed of by directing the Court below to consider the value of the suit property, decide the claim on merits and in accordance with law.

3. Pursuant to the directions issued in the above said civil revision petition, now the Court below has appointed an Advocate Commissioner to visit the suit property along with PWD Engineer and find out the value of the suit property. Aggrieved by the same, the petitioners/plaintiffs are before this Court.

4. The learned counsel appearing for the petitioners submitted that in the Suit Sale Agreement, there is no description about the building in the agreement mentioned property. In such circumstances, the petition filed by



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the respondent for valuing the suit property is not at all necessary. Therefore, the Court below by wrongly interpreting the order passed by this Court in the earlier civil revision petition appointed an Advocate Commissioner to value the suit property and the same is liable to be set aside.

5. A perusal of the Suit Sale Agreement would suggest that there is no description of the building in the Suit Sale Agreement. However, according to the respondent, there is a building stand in the suit property and the value of the same is worth about Rs.45,00,000/-. It was also the case of the respondent that the market value of the suit property is more than Rs.70,00,000/- and the Suit Sale Agreement is entered into for a paltry sum of Rs.4,75,000/-.

6. This Court in the earlier civil revision petition, by taking into consideration that the counter claim made by the respondent for cancellation of the Suit Sale Agreement on the ground of under valuation, directed the Trial Court to consider the value of the suit property and to decide the matter on merits and in accordance with law. The present order has been passed by the Court below by appointing Advocate Commissioner pursuant to the



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direction issued in the earlier revision.

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7. Taking into consideration the dispute between the parties with regard to the existence of the building in the agreement mentioned property and the very value of the agreement mentioned property, it would be appropriate to appoint an Advocate Commissioner to value the suit property with help of PWD Engineer and decide the claim as per the directions issued by this Court in earlier civil revision petition.

8. Accordingly, I do not find any illegality or irregularity in the order passed by the Court below and consequently, the Civil Revision Petition is dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

05.01.2024

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



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To

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The Subordinate Judge,
Paramathy.



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S.SOUNTHAR, J.

dm

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