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C.R.P.(MD)No.704 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.03.2026**

CORAM

THE HONOURABLE **MR.JUSTICE V.LAKSHMINARAYANAN**

C.R.P.(MD)No.704 of 2023

and

CMP(MD)No.3259 of 2023

1.Veerajothi Lakshmi

2.Pannerselvam

3.Meenakshi

... Petitioners

vs.

1.Shajahan

2.Packiam

3.Mookaiya

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 05.01.2023 passed in I.A.No.2 of 2022 in O.S.No.3 of 2021 on the file of Subordinate Court, Mudhukulathur and allow this Civil Revision Petition.

For Petitioners : Mr.A.Saravanan

For Respondents : Mr.T.Thirumurugan

ORDER

The defendants 1 to 3 are the civil revision petitioners. For the sake of convenience, parties shall be referred to as per their rank in the suit.



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2. The plaintiffs presented O.S.No.3 of 2021 on the file of the learned Subordinate Judge at Mudhukulathur seeking multiple reliefs of declaration, injunction, recovery of possession and mandatory injunction. Summons were served on the defendants. Amongst other pleas, the defendants also took a plea that the suit was bad for under valuation. The learned Trial Judge framed issues in the suit on 27.04.2022. It is not in dispute across the bar that one of the issues relates to the valuation of the suit.

3. The plaintiffs entered the witness box on 12.08.2022 and commenced his examination. A year and a month thereafter, the defendants 1 to 3 filed an application seeking appointment of an Advocate Commissioner to visit the suit property together with a qualified engineer to value the superstructures raised therein. This application was received in I.A.No.2 of 2022. After receipt of a counter from the plaintiffs, the learned Trial Judge dismissed the application on 05.01.2023. Hence, this Civil Revision Petition.

4. I heard Mr.A.Saravanan, for the civil revision petitioners/defendants and Mr.T.Thirumurugan, for the respondents/plaintiffs.



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5. I have gone through the records and have perused the impugned order.

6. The narration of the fact shows that not only have the defendants raised a plea of under valuation but the Trial Court has also framed the issue to that respect. In terms of Section 12(2) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955, an issue regarding Court fee would have to be dealt with before the evidence is recorded on the merits of the claim. It is only under those circumstances, a Court is entitled to appoint such person, as deems fit to assist it in answering the issue on Court fee. This is by virtue of a combined reading of Section 12(2) and Section 19 of the Court Fees Act.

7. When it is not in dispute that recording of evidence of the plaintiffs has commenced at least a year earlier before filing of the application for appointment of an Advocate Commissioner, the plea of the learned Counsel for the petitioners that the Trial Court has erred in dismissing the application cannot be entertained. The defendants, if they are so confident about the undervaluation, ought to have filed the application soon after filing the written statement. It is also not in dispute that no application was filed invoking Order XIV seeking framing of a preliminary issue. Having left the bus go by, it is too late



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for the defendants to attempt to board the same after the plaintiffs had entered the witness box.

8. I do not find any error in the order impugned in the Civil Revision. Accordingly, the Civil Revision Petition is **dismissed**. Needless to add, as an issue regarding court fee has been framed by the Court, the defendants will be at liberty to let in such evidences, as they can bring before the Court to substantiate their plea. In case, such evidence is let in, the Trial Court would certainly answer the issue.

9. Suit, being one pending for more than 5 years, I am sure that the learned Subordinate Judge will apply the appropriate direction that has been given by this Court on the administrative side and ensure that the suit is fast tracked. No costs. Consequently, the connected miscellaneous petition is closed.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
Nsr

02.03.2026

To:

The Subordinate Court, Mudhukulathur.



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V.LAKSHMINARAYANAN, J.

Nsr

Order made in
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