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C.R.P.No.2891 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.06.2023

DELIVERD ON : 28.06.2023

CORAM

THE HON'BLE MRS JUSTICE **K. GOVINDARAJAN THILAKAVADI**

C.R.P.No.2891 of 2015

Sivan

.. Petitioner

Vs.

1. Deivanai

2. Murthy

3. Vijayalakshmi

.. Respondents

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India to pass an order setting aside the order of the learned Principal District Judge of Krishnagiri, dated 28.04.2015 returning the plaint in O.S.No. of 2015 without numbering and directing to entertain and number the plaint filed by the plaintiff within the time to be framed and stipulated by this Hon'ble Court.

For Petitioner : Mr.V.Karthikeyan
for Mr.V.Nicholas

For Respondents : No appearance

ORDER

This Civil Revision Petition has been filed as against the order of the learned Principal District Judge, Krishnagiri, dated 28.04.2015 returning the plaint without numbering, on the ground that the petitioner has to pay the Court



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Fees for the value of the property.

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2. Heard the learned counsel for the petitioner. Though notice was served to the respondents, today no one appeared on behalf of the respondents before this Court, in person or through pleader.

3. The plaintiff has filed a suit for the following reliefs:-

“(1) தாவா சொத்துக்களை 4 சரிசம பாகங்களாக பிரித்து வாதிக் கு ஒரு பங்கினை பிரித்துக் கொடுத்து, அதன் சுவாதீனத்தினை வாதிக் கு வழங்கக் கோரி முதல் நிலை தீர்ப்பாணை பிறப்பித்தும்;

(2) நீதிமன்ற ஆணையாளரை நியமனம் செய்து தாவா சொத்துக்களை நலம் தீது கலந்து 4 சரிசம பாகங்களாக பிரித்து, அதில் ஒரு பாகத்தினை வாதிக் கு அளிக்கக் வேண்டும்;

(3) மேற்படி ஒரு பாகத்தினை வாதியின் சுவாதீனத்திற்கு அளிக்க வேண்டும் எனவும்;

(4) தாவா சொத்தின் 3ம் அயிட்டத்தில் உள்ள ஒரு வீட்டில் வாதியின் அமைதியான சுவாதீனத்திற்கு பிரதிவாதிகளோ அல்லது அவர்களது ஆட்களோ எந்தவிதமான இடையூறும் செய்யக் கூடாது என நிரந்தர உறுத்துக் கட்டளை பரிகாரம் வழங்கியும்;

(5) தாவா சொத்தினில் வாதியின் ஒரு பங்கினை பிரித்து சுவாதீனம் அளிக்கும் வரை பிரதிவாதிகளோ அல்லது அவர்களது ஆட்களோ தாவா சொத்தினில் எந்தவிதமான வில்லங்கமும் செய்யக் கூடாது என நிரந்தர உறுத்துக்கட்டளை பரிகாரம் வழங்கியும்;

(6) வாதியின் தகப்பனார் 1ம் பிரதிவாதி பெயருக்கு 16.4.2010ம் தேதி ஏற்படுத்தியதாக கூறப்படும் தானப்பத்திரம் செல்லாது என பரிகாரம் வழங்கியும்;



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(7) 1ம் பிரதிவாதி, 2ம் பிரதிவாதி பெயருக்கு 30.12.2014ம் தேதி ஏற்படுத்திய தானப்பத்திரம் செல்லாது என பரிகாரம் வழங்கியும்;

(8) தாவா செலவுத் தொகையினை பிரதிவாதிகள் வாதிக்கு அளிக்க வேண்டும் என்றும்;

(9) மேலும் நீதிமன்றம் தாவா சங்கதிகளுக்கு ஏற்றது என நினைக்கும் இன்னும் பிற தீர்ப்பு மற்றும் தீர்ப்பாணைகள் பிறப்பிக்க வேண்டும் என வாதிகள் வணக்கமுடன் பிராத்திக்கின்றனர்.”

4. For reliefs 6 and 7, the plaintiff has paid the Court Fees under Section 25(d) of the Tamil Nadu Court Fees and Suit Valuation Act, which according to the lower Court is incorrect. The above plaint was returned on the ground that the plaintiff has to pay the Court fees for the value of the property and the Court fees ought to have been paid under Section 40 of the Tamil Nadu Court Fees and Suit Valuation Act, since the plaintiff is claiming for declaring the settlement deeds dated 16.04.2010 and 30.12.2014 as null and void. Aggrieved by the same, the plaintiff has preferred this revision.

5. The learned counsel for the Revision petitioner/plaintiff assailing the order of the lower Court would contend that the learned Principal District Judge, Krishnagiri, failed to see that the plaintiff is not a party to the impugned settlement deeds which are in dispute and as such the Court fees should be paid only under Section 25(d) of the Tamil Nadu Court Fees and Suit Valuation Act



and not under Section 40 of the Tamil Nadu Court Fees and Suit Valuation Act.

He further submitted that the plaintiff has sought the reliefs that the settlement deed dated 16.04.2010 executed by his father in favour of the first defendant and the settlement deed dated 30.12.2014 executed by the first defendant in favour of the second defendant are not valid and as such the plaintiff has sought the relief declaring the above settlement deeds as null and void and not sought for the relief of cancellation of the above settlement deeds for the reason that the plaintiff is not a party to the above settlement deeds. Therefore, the Court fees paid by the plaintiff under Section 25(d) of the Tamil Nadu Court Fees and Suit Valuation Act is correct. Hence, the order passed by the learned Principal District Judge, Krishnagiri is liable to be set aside.

6. In support of his contention, he has relied upon the Judgment of this Court reported in **2006 4 LW 176** in the case of ***“Siddha Construction (P) Ltd represented by its Power Agent, Anjay Sharma Vs M.Shanmugam and 5 others”***, wherein this Court held as follows:-

“Tamil Nadu Court Fees and Suits Valuation Act, Sections 25(d), 40, CPC-Order 7 Rule 11- Suit was filed by respondents 1 to 4 to declare that the sale deed executed by the 1st defendant (5th respondent herein) to and in favour of the 3rd defendant (Revision Petitioner) is null and void and also for consequential injunction – Third defendant filed I.A. under Order 7 rule 11 to adjudicate on the two issues of limitation and valuation as preliminary issues and to



dismiss the suit-I.A was dismissed and this CRP under Art.227 was filed against the said order-Held: plaint contains averment that the plaintiffs are not parties to the sale deed, which is to be declared as null and void, and the plaintiff valued the suit for the purpose of the Court Fee under Section 25(d) of the Tamil Nadu Court Fees Act-Trial Court is right in coming to the conclusion that the suit has been rightly valued and the trial court has pecuniary jurisdiction-Plaintiffs are not signatories to the impugned sale deed and they have also not asked for cancellation of the same-Therefore the plaint cannot be rejected even before conducting a trial on the issues -CRP under Art.227 dismissed."

7. He also relied upon the Judgment of this Court reported in **2014 (1) MWN (Civil) 522** in the case of **"Kousalya Ramakrishnan Vs B.S.Padmavathy and others"**, wherein this Court held as follows:-

" Held- for determination of Court-fees, averments in Plaint need to be considered and defences made in Written Statement are irrelevant-In instant case, as Plaintiff was not a party to Sale Deeds and Cancellation Deed, Plaintiff need not pay market value of property as contemplated in Section 40(1)-Plaintiff only to pay Court-fees under Section 25(d) and not under Section 40(1)-Order passed in Check Slip directing Plaintiff to pay Court-fees under Section 40(1), set aside-Civil Revision allowed."

8. The Principles laid on the above decided cases are also applicable to the facts and circumstances of this case. Admittedly, the plaintiff is not a party or a signatory to the impugned two settlement deeds which are to be declared as null and void and therefore, the plaintiff has correctly valued the suit for the purpose of Court fees under Section 25(d) of the Tamil Nadu Court Fees and Suit Valuation Act. The plaintiff has also not asked for cancellation of the



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settlement deeds. Therefore, the plaintiff need not pay the market value of the property as contemplated under Section 40 of the Tamil Nadu Court Fees and Suit Valuation Act. Therefore, the order passed by the learned Principal District Judge, Krishnagiri, dated 28.04.2015, returning the plaint by directing the plaintiff to pay the Court fees under Section 40(1) of the Tamil Nadu Court Fees and Suit Valuation Act is incorrect.

9. In the result, the order passed by the learned Principal District Judge, Krishnagiri, dated 28.04.2015, is hereby set aside. The learned Principal District Judge, Krishnagiri is directed to number the plaint within a period of one week from the date of receipt of a copy of this order.

10. Accordingly, this Civil Revision Petition stands allowed. There shall be no order as to costs.

28.06.2023

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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K. GOVINDARAJAN THILAKAVADI ,J.

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To

The Principal District Judge, Krishnagiri.

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