

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 09.02.2015

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P (PD)No.4855 of 2014
and M.P.No.1 of 2014

P.Boopathy ... Petitioner / Plaintiff

Vs

1.S.Periathambi

2.Smt.Suguna

3.N.Raja

4.Smt.Parimala

5.M.Ramamurthy

... Respondents / Defendants

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 13.08.2014 made in I.A.No.453 of 2013 in O.S.No.515 of 2012 on the file of the II Additional Sub Court, Salem.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondents : M/s.R.Nalliyappan for R1 & R2

R3 – Given up

M/s.T.Murugamanickam

for R4 & R5

ORDER

This revision is directed against the order passed by the II Additional Sub Court, Salem in I.A.No.453 of 2013 in O.S.No.515 of 2012.

2. The petitioner, as plaintiff had instituted a suit against the respondents seeking for declaration and permanent injunction. After filing of the written statement by the respondent, the petitioner filed I.A.No.453 of 2013 under Order 6 Rule 17 & 151 CPC to amend the prayer seeking relief for recovery of possession. The petitioner also filed I.A.No.57 of 2014 under Section 76 of CPC to call for the value of the suit property from the Sub Registrar office. The application for amendment was dismissed. Aggrieved by the order, the present revision is filed.

3. Mr.R.Marudhachalamurthy, learned counsel for the petitioner submitted that the petitioner is ready to pay the court fee for the market value of the property but the trial court, without ascertaining the market value has dismissed the application. It is further submitted that the issue with regard to the property can be discussed as one of the issues in the suit and for non-payment of court fee, the application for amendment cannot be rejected.

4. Per contra, Mr.T.Murugamanickam, learned counsel for the 4th respondent submitted that the petitioner has filed the application for amendment of the prayer valuing the property under Section 30 of the Act. So, the petitioner is liable to pay court fee

under Section 7 (g) of the Tamil Nadu Court Fees and Suit Valuation Act. It is further submitted that Section 7 (g) of the Act is very clear that the petitioner has to pay the court fee on the market value of the suit property.

5. Considering the submissions made by the learned counsel for the petitioner as well as the respondents, this Court is of the view that the petitioner has to be given an opportunity to pay the court fee on the market value of the suit property. Hence, the order impugned in this revision is set aside and the matter is remanded back for fresh disposal by the trial court.

6. This Civil Revision Petition is disposed of accordingly.
No costs. Consequently, connected Miscellaneous Petition is closed.

09.02.2015

Index:Yes/No
rgr

To

The II Additional Subordinate Judge,
Salem.

K.KALYANASUNDARAM,J

rgr

Order in
C.R.P (PD)No.4855 of 2014

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