

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2015

CORAM

THE HONOURABLE MS. JUSTICE K.B.K.VASUKI

C.R.P. (PD) No.53 of 2006

John Devadoss

... Petitioner

vs

Ruth Morris (Died)

David Morris

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 13.01.2003 passed in I.A.No.65 of 1998 in O.S.No.71 of 1998 by the learned Subordinate Judge, Ponneri.

For Petitioner : Mr.S.Dharmakkan

For Respondent : Notice not served

ORDER

This petition is filed against the rejection of I.A.No.65 of 1998 in O.S.No.71 of 1998 in and under which the petitioner request to value the suit property at Rs.1302/- per cent on the basis of the guideline value issued by the Sub Registrar.

2. The petitioner herein is the plaintiff in O.S.No.71 of 1994. The suit is filed for the relief of declaration of the plaintiff's title to the suit property and for consequential permanent injunction. The suit is valued at Rs.25,000/- for the purpose of Court Fees and jurisdiction. During the pendency of the suit, the petitioner/plaintiff come forward with I.A.No.702 of 1994 to amend the pleadings for valuing the suit property at Rs.75,516/- and to pay the Court Fee of Rs.2,831.85/- ie., for half of the market value of the property. The same was seriously opposed by the respondent / defendant for testing the property by an Ameen to arrive at a correct value. As a result the Ameen was directed to make an inspection of the suit property to find out the present market value of the property. As per the report filed by the Ameen, the market value of the property was Rs.7,79,373/-. Pending determination of the market value, the suit was transferred to Subordinate Court, Ponneri and was renumbered as O.S.No.71 of 1998 and I.A.No.702 of 1994 was renumbered as I.A.No.65 of 1998. The learned Subordinate Judge, Ponneri, disposed of the Interlocutory Application on the basis of the Ameen's report and fixed the value of the suit property and directed the petitioner to pay the deficit court fee and thereafter, to amend the plaint

accordingly. It is further directed that in the event of failure to comply with the direction, the order passed in the Interlocutory Application will stand automatically set aside. Aggrieved against the same, the petitioner has filed the present revision petition before this Court.

3. Heard the learned counsel for the petitioner.

4. Even according to the petitioner/plaintiff, the suit property was not properly valued and the proper court fee was not paid, that is why, he has come forward with the Interlocutory Application to amend the plaint for correct suit value and for payment of correct court fees. While the petitioner/plaintiff relies on the guideline value for fixing the value of the suit property, the learned Subordinate Judge has relied on the report of the Ameen for fixing the value of the property consisting of land and building at Rs.7,00,000/-. It is not in dispute that the property morefully described in the suit schedule consists of land and building, whereas the petitioner/plaintiff, while adopting the guideline value per cent for the land, has not adopted any value for the building, whereas the Ameen's report regarding valuation is in respect of both the land and

building and the same is rightly relied on by the court below and there is no irregularity or infirmity in the order passed by the court below, as such the petitioner is disentitled to any order in this petition.

5. In view of the above, the petitioner/plaintiff is directed to comply with the direction of the lower court by paying the deficit court fee on or before 05.06.2015 and , directed to amend the plaint regarding the suit valuation and payment of court fees within two months thereafter. After compliance of the order dated 13.01.2013 of the lower court in the manner as stated above, the trial court is directed to proceed with the suit as expeditiously as possible.

6. With the above observation, the Civil Revision Petition is dismissed. No costs.

17.04.2015

Index : Yes/No
Internet : Yes/No
mra
To
The Subordinate Judge, Ponneri.

K.B.K.VASUKI, J.,

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