



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 7/1/2015

C O R A M

WEB COPY

THE HONOURABLE MS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.PD(MD) No.7 of 2015
& MP(MD)No.1 of 2015

1. Sri V. Meenakshisundaram
 2. Sri.V.Murugan ... Petitioners/Petitioners 3 & 4
Defendants 3 & 4
- Vs
1. Sri.S.Mahendran
 2. Sri.S.Surendran
 3. Sri.S.Ramathan
 4. Sri.S.Ravindran
 5. Sri.K.Kulu @ Kamatchi
 6. Sri.M.Moorthy
 7. Sri.M.Ramesh
 8. Sri.M.Anandan
 9. Sri.M.Thiyagarajan ...Respondents 1 to 9/Petitioner/Plaintiffs
10. Sri.K.Alagar
 11. Sri.B.A.Muruganandam
12. The Joint IV Sub-Registrar
Sub-Registrar Office
Vasanthanagar
Madurai 625 003. ...Respondents 10 to 12/Respondents 5 to 7

Petition filed under Article 227 of the Constitution of India to set aside the order dated 29/11/2011 passed in I.A.No.1009 of 2013 in O.S.No.1123 of 2012 on the file of the Principal Subordinate Judge, Madurai.

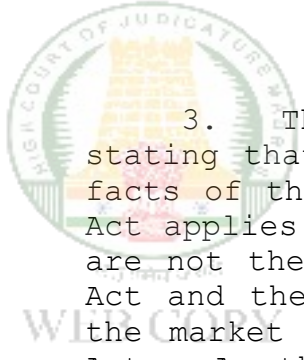
For petitioner ... Mr.R.A.Mohan Ram

For respondents ... No appearance

O R D E R

This Civil Revision Petition is directed against the order allowing the amendment petition.

2. The plaintiffs had filed the suit for declaration that the suit properties are a private family trust and for permanent injunction restraining the defendants from interfering with the plaintiffs peaceful possession or in the alternative for recovery of possession. Originally, the suit was valued and a fixed Court fee was paid under Section 28 A of the Court Fees and Suits Valuation Act.



3. The defendants raised an objection in the written statement stating that Section 28 of the above said Act was not applicable to the facts of the case for the relief sought for, as Section 28 of the said Act applies only for the dispute between the trustees. As the plaintiffs are not the trustees, the same cannot be valued under Section 28 of the Act and the plaintiffs ought to have paid the ad valorem tax fees and the market value of the Court fees under Section 28 of the Court Fees Act. As the defendants raised the objections regarding the payment of the Court Fees to avoid any technicalities, later, the plaintiffs filed the amendment petition and valued the suit under Section 25 A of the Court Fees Act and filed the application for carrying out necessary amendment. The defendants objected to the amendment stating that the amendment is belated and the same would change the character and nature of the suit. The Principal Sub-Judge, who had an occasion to hear the parties, allowed the amendment. Aggrieved by the same, the above Civil Revision Petition is filed.

4. Heard the learned counsel for the petitioners.

5. It is seen that the plaintiffs had originally valued the property at Rs.1,55,000/-, but paid the Court fees of Rs.200.50 under Section 28 of the Court Fees Act. As the defendants had raised an objection regarding the suit relief as well as the Court fees paid in the written statement, the plaintiffs have now sought for the amendment of the valuation of the plaint, so as to bring the claim under declaratory relief and bring the plaint under Section 28 A of the Court Fees Act.

6. From the conduct of the plaintiffs, it is seen that only to pay the lesser Court Fees under Section 25 of the Act was previously invoked. However, by changing it into Section 25 A of the Act, the character of the relief is not changed, only valuation is increased and the enhanced Court fees is paid under Section 25 A. Therefore, the contention of the defendants that the nature and character of the suit is changed by virtue of the proposed amendment is unacceptable and there is no reason to interfere with the finding of the trial Court as there is no material irregularity.

7. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar (Crl.side)

/True copy/

Sub Assistant Registrar

To
The Principal Subordinate Judge, Madurai.

+1cc to MR.K.S.SEENIVASAN, ADVOCATE IN SR : 783

Mvs

SR : 13.02.2015 : 2p/3c

<https://hcservices.ecourts.gov.in/hcservices/>

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