

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.R.SHIVAKUMAR.J

C.R.P.PD.No.4114 of 2015

and

M.P.No.1 of 2015

Ragu,
S/o.Mr.C.Krishnamachari,
No.33/15-A, Kesavaperumal East Street,
Mylapore, Chennai 600 004 ... Petitioner

Versus

1. A.Saraswathi
W/o.Venkataramana Reddy,
No.16/20, West CIT Nagar,
Chennai 600 035.
2. A.Swarna
D/o.Venkataramana Reddy,
No.16/20, West CIT Nagar,
Chennai 600 035 ... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 09.09.2015 passed in I.A.No.13320 of 2015 in O.S.No.3350 of 2007 on the file of the XIV Assistant City Civil Court, Chennai.

For Petitioner : Ms.S.P.Arthi

For Respondents : Mr.P.Subba Reddy

O R D E R

The arguments advanced on both sides are heard.

2. The defendant in the Original Suit in O.S.No.3350 of 2007 on the file of the XIV Assistant Judge, City Civil Court, Chennai is the petitioner in the present revision. The suit was

filed by the respondents herein for a declaration of their title for recovery of possession (Camouflaged with the prayer for mandatory injunction, directing the defendant to deliver possession) and recovery of mesne profits from the Revision Petitioner herein / defendant.

3. A larger extent of 7200 sq.ft. of land, which includes the suit land, came to be purchased by the respondents herein / plaintiffs under a sale deed dated 14.07.2006, based on which the respondents herein / plaintiffs claim title to the suit property. Though the market value of the said property purchased under the said sale deed was noted as Rs.43,20,000/- in the said sale deed, the sale consideration was noted only as Rs.8,00,000/-. Accordingly, the respondents herein / plaintiffs proportionately valued the suit property taking the market value of the total extent of property as Rs.8,00,000/- and paid the Court fee on the alleged market value of Rs.2,13,600/-

4. After receiving summons, the revision petitioner herein / defendant initially filed an application under Order VII Rule 11 of C.P.C. for rejection of the plaint and in such an attempt, he failed before the trial Court which was again confirmed by this Court in the previous Civil Revision Petition. By virtue of the observations made by this Court while disposing of the previous Civil Revision Petition, the Revision Petitioner / defendant chose to file a petition before the trial Court under Section 12 of the Tamilnadu Court Fees and Suits Valuation Act for determination of the market value and a direction to pay Court fee on the basis of the market value, thus determined. The said petition was resisted by the respondents herein / plaintiffs contending that the consideration noted in the sale deed alone shall be the guiding factor for fixing the market value. The learned trial Judge accepting the contention of the respondents herein / plaintiffs dismissed the said application filed by the Revision Petitioner, namely, I.A.No.13320 of 2015 in O.S.No.3350 of 2007, by an order dated 09.09.2015. It is as against the said order, the present Civil Revision Petition has been preferred by the petitioner herein / defendant invoking the power of superintendence of the Court under Article 227 of the Constitution of India.

5. It is an admitted fact that a larger extent of 7200 sq.ft of land was purchased under the sale deed dated 14.07.2006 relied on by the respondents herein / plaintiffs. Though a sale consideration of Rs.8,00,000/- was quoted therein, the parties to the documents themselves volunteered to make a recital therein furnishing the market value of the property under the said document as Rs.43,20,000/- and stamp duty and registration

fee came to be paid on that basis. It is not the case of the respondents / plaintiffs that the market value was changed quoting the guideline value as the market value pursuant to the objection raised by the Registering Authority after the document was presented for registration showing the sale consideration as the market value.

6. The learned counsel for the revision petitioner contends that the learned trial Judge, without appreciating the fact that the market value as disclosed voluntarily by the parties to the document alone shall be the guiding factor for fixing the market value for the payment of Court fee, disregarding the actual consideration paid which may be lessor or higher due to various considerations and that the failure on the part of the trial Court to adhere to the market value reflected in the document will show failure to exercise the jurisdiction conferred on it and hence, this Court has to correct the order passed by the learned trial Judge in exercise of its power of superintendence over the Subordinate Courts under Article 227 of Constitution of India.

6. Per contra, it is the contention of the learned Counsel for the respondents/plaintiffs that though the market value was only Rs.8,00,000/- for the larger extent of 7200 sq.ft, since the guideline value was Rs.43,20,000/- and the parties to the document apprehended that their document would not be accepted for registration if a lesser amount was quoted as the market value and that in any event, it might be impounded for undervaluation and payment of insufficient stamp duty, they were forced to quote the guideline value as the market value and that mere fact that the guideline value was quoted as the market value should not be allowed to be taken as advantage by the Revision Petitioner / defendant to contend that the suit has been undervalued.

7. It is the further submission of the learned counsel for the respondents/plaintiffs that the Hon'ble Supreme Court in *Satheedevi Vs. Prasanna and another*, reported in (2010), Supreme Court Cases 622 held that the value of the property for which the document was executed alone shall be the value of the suit on which Court fee was to be collected disregarding the actual market value or guideline value, if any. This Court perused the said judgment of the Hon'ble Supreme Court referred to by the learned counsel for the respondents/plaintiffs and upon such perusal, this Court is able to find that the facts of the said case differ from the facts of the case in hand and the ratio decided therein shall not be applicable to the case on hand. In the said case before the Hon'ble Supreme Court, a suit was filed with the prayer for cancellation of a document, which recited a lesser amount than the market value as consideration

and it was contended therein that the market value as on the date of the filing of the suit should be taken into account for payment of Court fee. Negating the said contention, the Hon'ble Supreme Court held that in the suit for cancellation of the document, the consideration value reflected in the document alone shall be taken into account.

8. On the other hand, here is a case, in which the suit is one for declaration of title regarding the suit property. In fact, though the respondents/plaintiffs might have purchased the property a decade back, the present market value shall be the guiding factor for the payment of Court fee for seeking declaration of title. It is not the case of the respondents / plaintiffs that the market value has declined from the date of the sale deed relied on the petitioner up to the date of filing of the suit. On the other hand, the contention of the respondents / plaintiffs is that since a comparatively meager amount was paid as consideration under the sale deed in which the suit property along with the larger extent was purchased, proportionate amount shown as consideration alone, should be taken as the market value of the suit property.

9. The said contention does not hold water and the same cannot be accepted. The learned trial Judge seems to have committed an error in simply rendering a decision as to what is the actual market value of the property regarding which declaration of title and other reliefs were sought for. The learned trial Judge also closed his eyes to the fact that it was not an involuntary act on the part of the parties to the document in mentioning the market value as Rs.43,20,000./- but, on the other hand, it was a voluntary act on the part of the parties to the document, which will go to show that, for the reasons best known to them, the consideration quoted was a little below 1/5th of the market value. If at all, the Court properly exercised its jurisdiction, it would have arrived at a conclusion that the proportionate value of the suit property based on the market value reflected in the sale deed dated 14.07.2006 should have been taken as the market value of the suit property based on which the Court fee should be paid. Hence, this Court does have no hesitation in coming to the conclusion that the Court below committed an error in exercise of its jurisdiction, which has got to be corrected by this Court.

9. In the result, the Civil Revision Petition succeeds and the same is allowed. The impugned order of the trial Court dated 09.09.2015 made in I.A.No.13320 of 2015 in O.S.No.3350 of 2007 is set aside. I.A.No.13320 of 2015 shall stand allowed with the result that the respondents/plaintiffs shall be liable

to pay the Court fee based on the market value calculated on the basis of the market value reflected in the sale deed dated 14.07.2000, which is worked out at Rs.11,52,000. The respondents / plaintiffs shall have 30 days time from today to make payment of the balance Court fee. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

srn

To

The Registrar,
XIV Assistant City Civil Court,
Chennai.

+2ccs to Mr.P. Subba Redduy, Advocate, S.R.No.7356

+1cc to the Government Pleader, S.R.No.7373

SK(CO)
EU(19/02/2016)

C.R.P.PD.No.4114 of 2015
and M.P.No.1 of 2015

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