

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.2409 of 2016

1.Gayathri

2.Thirumurugan : Petitioners
versus

K.Rajeswari : Respondent

PRAYER: Revision filed against the judgment on preliminary issue dated 25.4.2016 in O.S.No.1207 of 2014 (on preliminary issue) passed by the Principal District Munsif, Puducherry.

For petitioners :: Mr.R.Thiagarajan

For respondent :: Mr.G.Karthikeyan

ORDER

The respondent filed a suit for declaration and injunction against the petitioners in O.S.No.1207 of 2014 before the Principal District Munsif, Pondicherry. The suit was resisted by the petitioners by filing written statement.

2. The petitioners have taken up a preliminary objection with regard to the jurisdiction and court fee. According to the petitioners, the plaint is grossly undervalued and as such, a direction should be issued to the

respondent to pay proper court fee. The petitioners placed reliance on the guideline rate to substantiate their contention that correct value was not shown in the plaint in O.S.No.1207 of 2014. The learned Trial Judge rejected the contention and passed an order to the effect that the respondent has not underestimated the value of the property. Feeling aggrieved, the petitioners are before this Court.

3. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

4. The petitioners wanted the respondent to pay proper correct fee on the basis of the guideline rate available with the Sub Registrar. Neither the Sub Registrar nor the officers of the Revenue Department were examined to prove the guideline rate in respect of the suit property. The order passed by the learned Trial Judge does not contain any indication as to whether any evidence was let in by the parties to arrive at the correct valuation. I am therefore of the view that the matter requires fresh consideration by the learned Trial Judge.

5. In the result, the order dated 25 April 2016 is set aside. It is open to the parties to produce materials before the Trial Court to substantiate their respective contentions with regard to the value of the property. The learned Judge is directed to consider the materials and pass a fresh order

on merits and as per law.

6. The civil revision petition is allowed to the extent indicated above.
No costs. Consequently, C.M.P.No.12416 of 2016 is closed.

09.11.2016

Index:Yes/no
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To
The Principal District Munsif, Pondicherry.

K.K.SASIDHARAN, J.

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