

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

C.R.P. (PD) NO.3348 OF 2016
AND CMP NO.17086 OF 2016

1.Syyed Basheer Sahib
2.Malliga Bi

... Petitioners

Vs.

1.Faasill
2.Imran

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order passed by Principal District Munsif Court at Gingee made in I.A.No.1254/2013 in O.S.No.130/2013 dated 09.06.2014.

For Petitioners : Mr.B.Jawahar

ORDER

The respondents filed a suit in O.S.No.130 of 2013 before the Principal District Munsif Court, Gingee, for declaration of title, nullity of settlement, and injunction.

2. Before the Trial Court, the petitioners filed an application in I.A.No.1254 of 2013 to decide the question of jurisdiction, as a preliminary issue. According to the petitioners, the respondents have not shown the correct market value of the suit property and as such, the issue regarding market value should be tried as a preliminary issue.

3. The learned Trial Judge dismissed the application with an observation that question with regard to the market value, cannot be decided, on the basis of the available materials and it should be tried along with other issues. Feeling aggrieved, the petitioners are before this Court.

4. The learned counsel for the petitioners contended that the respondents undervalued the suit property and as such, the Trial Court was not correct in dismissing the application filed for determining the market value. Hence, the present Civil Revision Petition deserves to be allowed.

5. The petitioners wanted the Trial Court to decide the preliminary issue, before taking up the matter on merits. The petitioners contended before the Trial Court that the suit property has the potentiality to be converted as a house site and as such, it should be

treated as a house site. According to the petitioners, the respondents are liable to pay stamp duty, taking into account the market value of the suit property as a house site.

6. The question as to whether the property in question is a house site, has to be decided by the Trial Court, along with other issues. There is no question of framing a preliminary issue, with regard to market value.

7. The learned Trial Judge has given sufficient reasons, in the order dated 09.06.2014, in I.A.No.1254 of 2013. I do not find any error or illegality in the order passed by the learned Trial Judge warranting exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

8. In the upshot, I dismiss the Civil Revision Petition. No costs. Consequently, connected miscellaneous petition is closed.

03.11.2016

Index : Yes/No
Internet : Yes/No
TK

K.K.SASIDHARAN, J.

TK

To

The Principal District Munsif Court
Gingee.

C.R.P. (PD) NO. 3348 OF 2016

03.11.2016