

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2016

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(NPD).No.3824 of 2016

1.Grace Kanagaraj
2.Ileen
3.Ethel
4.Meera Bai
5.Ramani Watts
6.C.W.Daisy Sampooram
7.Simpson Watts
8.Nirmala
9.Prisilla
10.Sheela

.. Petitioners/Plaintiffs

(Petitioners 2 to 7 rep. by its
Power of Attorney)

Vs.

1.Stephen Thomas
2.Anne Inbaraj

.. Respondents/Defendants

Prayer:- Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, against the fair and decretal order dated 08.06.2016 passed in C.M.A.No.2 of 2015 on the file of the Sub-Court, Uthagamandalam, confirming the judgment and decree dated

28.11.2014 passed in O.S.No.114 of 2004 before the District Munsif Court, Coonoor.

For Petitioners : Ms.R.Meenal

ORDER

Civil Revision Petition is filed against the fair and decreetal order dated 08.06.2016 passed in C.M.A.No.2 of 2015 on the file of the Sub-Court, Uthagamandalam, confirming the judgment and decree dated 28.11.2014 passed in O.S.No.114 of 2004 before the District Munsif Court, Coonoor, for return the plaint to represent the same before the Court having pecuniary jurisdiction stating that the District Munsif Court, Coonoor, has no pecuniary jurisdiction to decide the case.

2.Learned counsel for the petitioners would submit that the petitioners as the plaintiffs filed a suit in O.S.No.114 of 2004 for declaration of title and recovery of possession. The defendant filed the written statement and contested the suit. Reply statement has also been filed by the petitioners. But the trial Court returned the plaint to file it before the appropriate Court as the suit property is valued beyond the pecuniary jurisdiction of the Court. Against the same, the

petitioners preferred an appeal in C.M.A.No.2 of 2015 on the file of the Sub-Court, Uthagamandalam and the said appeal was also dismissed. Aggrieved over the same, the present revision has been preferred by the petitioners/plaintiffs. He would further submit that the suit was filed in the year 2004 and the house is in dilapidated condition and that the market value has to be determined as on the date of filing the suit. So the suit was properly valued. But both the Courts below have not considered those aspects. Therefore, he prays for allowing the revision.

3.At the time of admission, argument of the learned counsel for the petitioners is heard in length.

4.On perusal of the typed set of papers, it reveals that the petitioners as the plaintiffs filed a suit for declaration of title and recovery of possession from the defendants free from obstruction with future profits payable by the defendant from the date of filing the suit till the date of delivery of possession in respect of two items of suit property. The defendant has filed a written statement and contested the suit. In para-14 of the written statement, it was stated that as the market value of the suit schedule property on the date of suit is more

than Rs.2 Crores, the suit schedule property was not properly or correctly valued and the Court fee paid is not correct. Thereafter, reply statement has been filed by the plaintiffs/revision petitioners.

5.It is seen from the judgment of the trial Court that suomotu the trial Court has appointed the Commissioner to evaluate the suit property as per the guide line. Commissioner's report was filed and objections were also filed. In the report, it is observed that the suit property is valued beyond the pecuniary jurisdiction and that the plaint has been returned to file it before the appropriate Court and the same is challenged by the petitioners. Further, the first appellate Court in para-8 of its judgment has decided that it is a vacant site along with a terrace building and the plaintiffs have not valued the property correctly. If it is valued properly, it exceeds the pecuniary jurisdiction of the District Munsif Court, Coonoor. On that basis, the plaint was returned with a direction to represent the same before the Court having pecuniary jurisdiction as per the Commissioner's report.

6.Considering the aforestated facts and circumstances of the case, I am of the view that while assigning the Court fee, it should not be valued on the basis of the kisth paid, since it is not riotwary or

agricultural property. Now it is appropriate to incorporate Section 7 of **Tamil Nadu Court-Fees And Suits Valuation Act, 1965, which reads as follows:**

"7. Determination of market value:

(1) Save as otherwise provided, where the fee payable under this Act depends on the market value of any property, such value shall be determined as on the date of presentation of the plaint.

(2) The market value of land in suits falling under sections 25(a), 25(b), 27(a), 29, 30, 37 (1), 37 (3), 38, 45 or 48 shall be deemed to be --

(a) where the land is ryotwari land-thirty times the survey assessment on the land:

Provided that, where the land forms part of a survey field and is not separately assessed to revenue, the value of such part shall be deemed to be thirty times such proportion of the survey assessment as the part bears to the entire survey field. "

Admittedly, the property is a vacant site along with a terrace building. In such circumstances, both the Courts below have rightly held that the property was not properly valued and that the District Munsif Court, Coonoor, has no pecuniary jurisdiction to decide the suit. So I do not find any illegality or irregularity in the fair and decreetal order passed by both the Courts below and therefore, they are hereby confirmed. Consequently, the Civil Revision Petition stands dismissed.

R.MALA,J.

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7.In the result, this Civil Revision Petition shall stand dismissed by confirming the fair and decreetal order passed by both the Courts below. No costs.

14.12.2016

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Index:Yes/No

To

- 1.The Sub-Court, Uthagamandalam.
 - 2.The District Munsif Court, Coonoor.
 - 3.The Record Keeper
- V.R.Section, High Court, Chennai.

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R.MALA, J.

This matter came up today 'for being mentioned'.

2.Heard the learned counsel for the petitioner.

3.The plaint was returned on pecuniary jurisdiction. The learned counsel for the petitioner sought for time to represent the plaint after paying the Court fee. On her request, the plaint to be represented after payment of Court fee on or before 03.04.2017.

28.02.2017

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