

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.3546 of 2013

&

M.P.No.1 of 2013

1.K.Ramadoss
2.K.Vasu
3.P.Dasaradan

... Petitioners

VS.

E.Stalin

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decretal order of the District Munsif, Poonamallee dated 01.08.2013 made in I.A.No.567 of 2013 in O.S.No.137 of 2013 and thereby reject the plaint for under valuation of relief of declaration.

For Petitioners : Mr.V.Anil Kumar
For Respondent : Dr.C.Ravichandran
for M/s.R.Ramesh

ORDER

The Defendants 2 to 4 in O.S.No.137 of 2013 on the file of the District Munsif, Poonamallee are the petitioners in the Civil Revision Petition preferred under Article 227 of the Constitution of India. The petitioners are represented by Mr.V.Anil Kumar and the respondent is represented by Mr.Dr.D.Ravichandran, appearing on behalf of Mr.R.Ramesh, learned counsel on record for the respondent.

2. The arguments advanced on both sides are heard.

3. The respondent herein filed the suit on the file of District Munsif, Poonamallee in respect of the suit property for declaration of his title in respect of the suit property and an injunction against the defendants therein not to interfere with his peaceful possession and enjoyment of the suit property. The valuation of the suit property came to be made on the basis of the kist value. There is a thatched house as per the plaint averments and the thatched house has been separately valued at *ad valorem* value. On the basis of the said valuation, a sum of Rs.2325.50 came to be paid. The defendants 2 to 4, who are petitioners in the present revision, after entering appearance in the suit, without filing a written statement, filed a petition in I.A.No.567 of 2013 under Order VII Rule 11 CPC for the rejection of the plaint on the ground that the suit has been grossly undervalued and insufficient Court fee came to be paid.

4. The learned trial Judge, after hearing both sides, came to the conclusion that the valuation of the agricultural land at 30 times of the kist value was proper and that the same cannot be said to be an act of grossly valuing the relief.

5. In this regard, it is pertinent to note that, the petitioners did not raise any objection for the valuation of the thatched shed at Rs.30,000/-. The remaining extent of land, which is stated to be agricultural land, has been valued at 30 times of the kist value by the respondent herein/plaintiff. The said method of valuation alone is questioned to be improper by the petitioners herein/defendants 2 to 4. The learned trial Judge, of course, chose to render a finding in the said application itself that the valuation was correct. The said method adopted by the trial Court will amount to prejudging an issue, which may be raised in the suit and which has got to be decided on the basis of the evidence to be adduced.

6. The learned trial Judge seems to have proceeded on the assumption that in a petition filed under Order VII Rule 11 CPC itself, the petitioners/defendants could lead evidence to prove the undervaluation. The said approach made by the learned trial Judge is improper. However, the final order dismissing the application filed under Order VII

Rule 11 CPC can be sustained for the reasons to be substituted by this Court that appear infra.

7. Nothing has been provided in any of the sub-clauses to Rule 11 under Order VII CPC for the rejection of the plaint straightaway on the ground of undervaluation or payment of deficit Court fee. In case, the plaintiff has undervalued the relief and if the Court, on finding that the relief has been undervalued, directs the plaintiff to amend the valuation within a time to be stipulated in the direction and the plaintiff fails to do so, then only the question of rejection of the plaint under Order VII Rule 11 CPC sub-clause (b) will arise. So far as the non-payment of sufficient Court fee is concerned, it is covered by sub-clause (c). It says that even though the relief claimed is properly valued, if the plaint is insufficiently stamped and the plaint is returned by the Court with a direction to supply the requisite stamp paper within a time to be fixed by the Court and the plaintiff fails to do so within the time stipulated therein, then only the question of rejection of the plaint under sub-clause (c) arises. Undervaluation and payment of insufficient Court fee consequent to the undervaluation will arise only after the Court renders a finding regarding the valuation under sub-clause (b) and directs the plaintiff to amend the valuation. In case the plaintiff amends the valuation as per the direction contemplated under sub-clause (b), even then the plaint can be rejected,

if a further direction regarding payment of Court fee after such amendment is not complied with as contemplated under sub-clause (c). The question of directing the plaintiff to amend the valuation and thereafter to pay the deficit Court fee will arise only after rendering a finding regarding the correctness or otherwise of the valuation. It is a matter to be raised as an issue in the suit and if possible, it can be even sought to be resolved as a preliminary issue. Then only the question of attraction of either sub-clause (b) or (c) of Rule 11 under Order VII CPC will arise.

8. In view of the forgoing discussions, it will be made clear that the application under Order VII Rule 11 CPC has been filed on a total misconception of Rule 11. On that ground alone, the petition could have been dismissed by the trial Court. However, though for different reasons, the learned trial Judge has rightly chosen to dismiss the said petition. Despite the fact that the reason assigned by the trial Court is not germane to an enquiry under Order VII Rule 11 CPC, this Court, seized of the revision, substitutes the above reason for upholding the dismissal of the petition under Order VII Rule 11 CPC.

Accordingly, the civil revision petition is dismissed and the final

order of the trial Court dismissing I.A.No.567 of 2013 shall stand confirmed not for the reasons stated in the fair order of the trial Court, but for the reasons appearing supra. However, there shall be no order as to cost. Consequently, the connected miscellaneous petition is closed.

12.02.2016

Index: Yes/No
Internet: yes/No
gpa

To

The District Munsif
Poonamallee

P.R.SHIVAKUMAR.J.,

gpa

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