BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.02.2016

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.2087 of 2015(PD)
and M.P(MD)No.1 of 2015

Shanmuga Raja ... Petitioner/Petitioner/ 6th Defendant

Vs.

1.Tirunelveli Diocesan Trust Association,
Represented by its Secretary and Treasurer,
No.5, Panithavathiyar Street,
Palayamkottai,
Tirunelveli-2. ..1st Respondent/1st Respondent Plaintiff

2.Kumarasamy
3.Sivagurunathan
4.Sucila Gandhimathi
5.Shanmuga Sundari ..Respondents 2 to 5 /Respondents 2 to 5 Defendants 2 to 5

Civil Revision Petition filed under Article 227 of Constitution of India to call for the records relating to the Fair and Decreetal order, dated 04.09.2015 made in I.A.No.401 of 2015 in O.S.No.50 of 2007 on the file of the Additional Sub-Judge, Tirunelveli to set aside the same and consequently allow the civil revision petition.

For Petitioner : M/s.AR.L.Sundaresan
Senior Counsel for Mr.J.Anandkumar
For Respondents : Mr.S.S.Sundar

ORDER

The petitioner is the 6th defendant in the suit and petitioner in I.A.No.401 of 2015, the first respondent is the plaintiff/first respondent, the respondents 2 to 5 are the defendants 2 to 5 in O.S.No.50 of 2007, on the file of the Additional Sub Court, Tirunelveli. The petitioner filed I.A.No.401 of 2015. The first respondent filed O.S.No.50 of 2007 against the petitioner and respondents 2 to 5 for declaration and injunction in respect of suit properties. The petitioner filed written statement in the suit and contesting the suit.

2.The first respondent/plaintiff paid court fee for the suit property as Ryotwari land and paid 30 times of land tax/kist and paid Court fee, for the building as per the market value. The petitioner filed I.A.No.401 of 2015 to decide the question as to whether the first respondent has paid the proper court fee and whether the Sub Court has pecuniary jurisdiction.

3.According to the petitioner, the property in question is within the limits of Tirunelveli Corporation and the lands are house sites. 'A' issue had been framed in this regard and prayed for decision with regard to Court fee and jurisdiction before the trial.

4.The first respondent has filed counter and denied all the allegations made in the affidavit. The land in question was originally Inam land. The Government took the land as per the Inam abolition Act 1968. The Settlement Officer issued Ryotwari patta to the first respondent. The land is Ryotwari punja land. The first respondent is paying land tax/kist. Based on the same, Court fee has been calculated 30 times of land tax and paid. The Court fee paid is proper. The petitioner has filed the application only to drag on the proceedings and prayed for dismissal of the I.A.

5.The third respondent also filed counter affidavit. According to the third respondent, the property in question was not an agricultural land and it was a vacant land for longtime. The father of the third respondent filed a suit in O.S.No.283 of 2004 on the file of the III Additional District Munsif Court, Tirunelveli. In the said suit, the petitioner contended that the court fee paid by the father of the third respondent is not proper. After hearing the petitioner, the learned III Additional District Munsif Judge, Tirunelveli ordered that the court fee paid by the father of the third respondent was not correct. Subsequently, the father of the third respondent has paid the correct court fee. The third respondent is running a Hospital and only based on that, court fee has been paid. The court fee paid by the first respondent is not correct. Therefore, the third respondent prayed for a direction to the first respondent to pay the correct court fee.

6.On behalf of the petitioner, Assistant from the Sub Registrar Office, Burkith City was examined as P.W.1 and certified copy of the Register was marked as court document No.1 and on behalf of the second respondent, order of Settlement Tahsildar, dated 26.09.1974 was marked as Ex.R1 and land tax receipt was marked as Ex.R2 by consent.

7.The learned Judge considered all the materials on record and judgments relied on by the parties and arguments of both counsel on record and held that the court fee paid by the first respondent is proper and dismissed the I.A. Against the said order of dismissal, dated 04.9.2015, the petitioner has filed the present civil revision petition.

8.The learned Senior Counsel appearing for the petitioner contended that:-

i) The learned Judge failed to see that the first respondent had constructed a Hospital and various other buildings and shops and let out for rent.

ii)The learned Judge did not consider the documents filed by the petitioner and did not give any finding with regard to the documents and evidence of Assistant of the Registration Department. The finding of the learned Judge that the document of Registration is erroneous.

iii)The land in question consist of several buildings and Court fee has to be paid on market value as per the provisions of Tamil Nadu Court Fee and Suit Valuation Act and not as Ryotwari land.

iv)The judgements relied on by the counsel for the first respondent are not applicable to the facts and circumstances of the case.

9.The learned Senior Counsel appearing for the petitioner relied on the following judgments:-

1) ***2008(2) L.W. 781 J.B.Joe Vilwarayar & Others v.Loordhu Ammal & others*** (Paragraphs 12 to 19)

"12.The learned counsel for the revision petitioners/plaintiffs reiterating the grounds of revision petition would develop his arguments to the effect that the averments in the plaint alone would be the governing factor and not the contentions in the written statement. He would also submit that once in the revenue records, the suit properties are referred to only as Ryotwari lands and the plaintiffs wanted declaration and recovery of possession only regarding the suit site as Ryotwari land and for recovery of vacant possession after demolishing the superstructures thereon, the question of directing the plaintiffs to value the suit land as house sites and also the superstructures thereon and to pay Court fee would not arise.

13.In this connection, the learned counsel for the revision petitioner/plaintiff would cite the decision of this Court in Sorna Pandi Nadar v. Sivasubramania Nadar reported in 1976-TLNJ-1969. The perusal of the said decision would show that the facts involved in that case were to the effect that the revenue records would refer to the suit property as a Ryotwari land, whereas it was being used as salt pan and in such circumstances in a suit for partition, the plaintiff was permitted to value the suit property as Ryotwari land and he was allowed to pay Court fee accordingly. But, here it is obvious that the factual position is entirely different.

14.The Court on two occassions on perusal of the Commissioner's Report clearly held that virtually the said suit land was converted into a big polot area and several buildings cropped up. I am of the considered opinion that the plaintiffs having kept quiet, when the land was converted into plot area and the buildings have been constructed by the defendants, cannot now veer round and contend ignoring of all those developments that the plaintiffs want only the erstwhile Ryotwari land and that they could value as agricultural land and could pay Court fee on kist value of such land.

15.The perusal of Sections 7 and 25 of Tamil Nadu Court Fees and Suit Valuation Act, 1955 would amply make the point clear that the physical features as it exists on the date of filing of the suit should be dominant factor for valuation as well as for payment of Court fee. No plaintiff is having the right to call upon the Court to visualise notionally ignoring the existing physical features presently on the land, by relying on the reference in the revenue records, for the purpose of valuation and Court fee.

16.It is a trite proposition of law that the provision of a statute have to be interpreted by adhering to its grammatical plain meaning and one cannot read anything into the provisions under the Tamil Nadu Court Fees and Suit Valuation Act, 1955. I could see nowhere in the said Act anything specified that the plaintiff could call upon the Court to ignore the present developments and visualise the suit property as it ought to have existed a few years ago for the purpose of valuation and Court fees.

17.The learned counsel for the revisions petitioners/plaintiffs also cited the following decisions of this Court:

i)Suseela & 4 others v. A.S.L.Rajan reported in 1999-2 L.W.772 and

ii)Raman v. Rahmathunnisa and 2 others reported in 1999(III) CTC 88.

18.Perused the aforesaid two decisions also. In view of my discussion supra, I am of the considered opinion that those decisions are not germane for the purpose of deciding this matter as the factual position in this case is different from the ones involved in those decisions.

19.The learned counsel for the respondent No.18,19 and 27 would cite the decision of this Court in D.Pattammal v. K.Kaliyanasundaram reported in 1988-2-L.W.162. Certain excerpts from it would run thus:

"13.S.7(v) of the old Act, related to suits for possession of land, houses and gardens. It was prescribed that in such cases, the court fee should be paid according to the value of the subject-matter. The section provided for the computation of such value differently in the case of different kinds of lands. It is significant to note that even under th eold Act, when the subject matter was a house, or garden, the value was to be calculated according to the market value of the house or garden as per S7(v)(e) S.7(ic)(c) of the old Act pertained to suits for declaratory decree or orders with prayers for consequential reliefs under the old Act, the value was to be computed according to the amount at which the relief sought was valued in the plaint or memorandum of appeal. Thus, in suits for declaration with consequential reliefs, the plaintiff had the option to value the relief as he chose and court fee was payable only on such value. Once the Bench took the view that the suit was really one for declaration, it fell under S.7(iv)(c) of the old Act.

2)***2012(3) MWN (Civil) 352 Dravidamani Vs.Muthukumarasamy*** (Paragraphs 4 and 7)

> "4.I am unable to accept the contention of the learned counsel for the Revision Petitioners. The learned Counsel for the Revision Petitioners having rightly admitted that the Court fee payable is under Section 25(b) of the Tamil Nadu Court-Fees and Suits Valuation Act, has to pay the Court-fee on the market value of the property. Section 7 of the Tamil Nadu Court Fees and Suits Valuation Act deals with determination of market value and as per Section 7(2) of the Act, 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.
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> 7.As regards the contention of the learned counsel for the Revision Petitioner in relying upon the judgment reported in Raman v. Rahmathunnisa and two others, 1999(3) CTC 88, with great respect I am unable to agree with the findings rendered in that Judgment. Though I am bound by the Judgment rendered by this Court, having regard to the facts of that case, that Judgment cannot be taken as a precedent for this case. In the reported case, the learned Judge did not advert to the provision of Section 7(2)(g) of the Act and the learned Judge proceeded on the basis that the property is a Ryotwari land and therefore the market value is thirty times the survey assessment on the land. There is no materials available in that Judgement to the effect that the provision of Section 7()(g) of the Act was brought to the knowledge of the learned Judge while deciding the issue in that case. According to me, if that provision has been brought to the knowledge of the learned Judge, the learned Judge would not have come to that conclusion. According to me, where the suit property is not a Ryotwari land and does not fall under Section 7(2)(b)(c)(d)(e) & (f), then it only falls under Section 7(2)(g) of the Act and in that case thirty times assessment cannot be taken as a market value and the Court has to give a finding regarding the market value and that has been done in this case. Hence, the Judgment relied upon by the learned Counsel for the Revision Petitioner cannot be applied to the facts of the case. Hence, I do not find any infirmity in the order of the Court below and the Revision is dismissed."

10.The learned counsel for the first respondent submitted that the land in question is only punja Ryotwari land and land tax/kist is paid. Based on the same, Court fee is paid 30 times of property tax as per Section 7 of the Tamil Nadu Court Fees and Suits Valuation Act. The first respondent had paid the court fee for hospital building at market value. The land in question is not house site and therefore, question of payment of court fee on market value does not arise.

11.The learned counsel for the first respondent relied on the following judgments:-

I) 1976 TLNJ 69 Sorna Pandi Nadar vs. Sivasubramania Nadar & others

"......The question is whether the evaluation made by the Plaintiff for the purpose of Court Fee and the reckoning of the market value under Section 7(2)(a) of the Act is correct or not. The Lower Court agreed with the Plaintiffs valuation as it is fundamental that the Court should not substitute or interpolate in the text of the statute and as a primary duty of the Court is interpret and not to declare it, the language of the statute would prevail over the interesting, compelling and able arguments to the contrary....... "

ii)1996 TLNJ 87 G.Krishnamurthy & others vs.Sarangapani & another

"..... For a better appreciation of the stand taken by both sides, it is better to look into the relevant provisions of the Court-fees Act. U/s.7(2) the market value of the land in suits under Sections 25(1), 25(b), 27(a), 29, 30, 37(1), 37(3), 38, 45 or 48 shall be deemed to be where the land is assessed, thirty times the survey assessment on the land and where the land is a house site whether assessed to full revenue or not, poramboke land, or any other land not falling under clause (1), its market value. Under Section 25(a) where the prayer is for a declaration and for possession of the property to which the declaration relates, fee shall be computed on the market value of the property or on Rs.300/- whichever is higher, Referring to the provisions of the Court-fees Act, the learned counsel for the respondents Mr.Yashod Vardhan had submitted that the Act contemplated only if the property in question is a land assessed to be taxed and if so 30 times the assessment shall be presumed to be the market value Section 2 clause (b) is to the effect that where the land is a house site whether assessed to full revenue or not, poramboke or any other land not falling under clause (a) its market value. So it could be seen that the Court-fees Act makes a distinction between the land and a house site and where the land is assessed meaning thereby that it is an agricultural land. So, the suit property is classified as Ryotwari land in revenue records and not as a house site.

iii)Suseela and ors. vs. A.S.L.Rajan, dated 21.06.1999

2. "It is unfortunate that long years have been spent by the Court below on a combat between two parties on the question of court-fee leaving the real issues to be fought between them to come up leisurely. Two things have to be made clear. Courts should be anxious to grapple with the real issues and not spend their energies on peripheral ones. Secondly, the court-fee, if it seriously restricts the rights

of a person to seek his remedies in Courts of justice, should be strictly construed. After all access to justice is the basis of the legal system. In that view, where there is a doubt, reasonable, of course, the benefit must go to him who says that the lesser court-fee alone be paid".

34.The following is the gist of the principles enunciated by the various Courts:-

The Court-fees Act was enacted to collect revenue for the benefit of the State and not to arm a contesting party with a weapon of defence to obstruct the trial of an action. Whether proper court-fee is paid on a plaint is primarily a question between the plaintiff and the State. How by an order relating to the adequacy of the court-fee paid by the plaintiff, the defnedant may feel aggrieved, it is difficult to appreciate. The anxiety of the Legislature to collect court-fee due from the litigant is manifest from the detailed provisions contained in the Act. But, those provisions do not arm the defendant with a weapon of technicality to obstruct the progess of the suit. The preliminary issue regarding court-fee is essential and the matter is between the Court and the suitor. The finding rendered by the Court cannot be said to have caused any prejudice to the defendant. When the suit property is classified in the Revenue records as agricultural land and it is assessed to revenue kist, the market value of the property of any land which is assessed to the Revenue records will be reckoned only under Section 7(2)(a) of the Court-fees and Suits Valuation Act. When the lands have been registered as agricultural lands in the Revenue records, it cannot be said that the lands ceased to be agricultural lands, merely because the lands were kept vacant".

39.In this context, it is also relevant to note that the learned District Munsif on his own finding observed that except the suit lands, other lands were converted into house sites. When such being the situation, despite the production of the kist receipts being the Revenue records to show that the kist is collected for the suit properties even after the filing of the suit, there is no reason as to why the trial Court allowed the application of the first defendant by upholding his objection. So long as there is no modification or variation in the classification of the suit lands from Nanja into 'house sites' and in the absence of the material produced by the first defendant for establishing the same, the court-fee shall be payable only as kist paying lands. The fact that the lands in the neighbouring area have been converted into house sites has already been considered by this Court In C.R.P.No.2017 of 1982 wherein it was held that the suit properties shall be treated as lands. The trial Court, having found from the kist receipts produced by the plaintiffs that the lands continued to be Ryotwari lands cannot hold that the suit has not been properly valued merely on the ground that the neighbouring lands have been converted into house sites."

iv)1999 (2) L.W.772 (Aathi Chettiar vs. P.Vaikuntavalli

9.That apart, this court in the case of Suseela and 4 others Vs.A.S.L.Rajan (1999-2-LW-772) referring to the classification of suit property in revenue records as Agricultural land, held that so long as there is no modification or variation in the classification of the suit lands from nanja into 'house sites' and in the absence of any material produced by the Defendants for establishing the same, the court fee has to be paid only as kist paying lands. It is held thus:-

"The fact that the lands in the neighbouring area have been converted into house sites has already been considered by this Court in CRP No.2017/1982 wherein it was held that the suit properties shall be treated as lands. The trial court, having found from the kist receipts produced by the Plaintiffs that the lands continued to be the Ryotwari lands cannot hold that the suit has not been properly valued merely on the ground that the neighbouring lands have been converted into house sites. This question has to be necessarily decided only on the basis of the revenue records. The kist receipts produced by the Plaintiffs, the Petitioners herein, would clearly show that the suit properties are still treated as lands. Without taking into consideration these kist receipts and the earlier order of this Court, the trial court has jumped to the conclusion on the hypothetical assumption that the situation prevailing at the time when this court passed an order would have been different at present. There is no basis to arrive at such a conclusion."

v) 81 L.W. 502 Jugaraj v. Mr/s.Carborandum Universal ltd.,

"The lower court appears to be right in having accepted the contention of the plaintiff that the suit has properly been evaluated. In a case of this kind, wherein the property has been characterised in the revenue records as Ryotwari land, it would be difficult for a court of law to conjecture upon the nature of such land by taking into consideration the probabilities of its user in the future or its potentialities. In fact, Mr.Damodara Rao would say that it is highly improbable that the land in question would ever remain as Ryotwari land in view of the fact that it is situated in the midst of factories and particularly it is an annexure to the vast factory already worked by the respondent. It might be so, but, in my view, it would be difficult to take into consideration such potential use or probability while adjudging the issue whether the plaintiff has properly evaluated the suit and land for the purpose of instituting an action for possession. There is a specific provision under the Madras Court fees and Suits Valuation Act enabling the plaintiff to evaluate the suit Ryotwari land at 30 times the survey assessment of the land. This the plaintiff has done. The accepted form of law is that the special excludes the general. Even the opening parenthesis of S.7(1) 'save as otherwise provided' provides a key to the interpretation of the section. In the instant case, such a provision has been made under S.7(2)(a). I am, therefore, unable to accept the contention of the learned counsel for the petitioners that the other clauses, viz., S.7(2)(g) of the Act can be pressed into service for the purpose of ascertainment of the court fee payable by the plaintiff."

vi)2010(5) L.W.76 P.Sekar vs. V.K.Vaiyapuri and others.

"8.It is seen from the Tamil Nadu Court Fees and Suit Valuation Act, as per section 7, the court fee payable depends on the market value of the property and such value shall be determined as on the date of presentation of the plaint. Further, as per section 7(2), the market value of the land in suits falling under sections 25(1), 25(b), 27(a), 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 and as per section 7(2)(g) where the land is a house-site whether assessed to full revenue or not, poramboke land, or is land not falling within the foregoing description its market value. Therefore, it is seen from Section 7 of the Tamil Nadu Court Fees and Suits Valuation Act, if it is 'Ryotwari land', the market value is 30 times of the survey assessment and if it is a house or poramboke or land not falling within the other description, the court fee shall be paid on the market value.

11.Further, I also held in the Judgment reported in 2009 (5) CTC 818 in the case of P.Arunachalam and 5 others vs. L.Thiagarajan and others, wherein the facts are almost similar and in that case also, the property was "Ryotwari punja land"and the plaintiff valued the suit property on the basis of the kist assessment. In that context, I held that when the property is admittedly agricultural property and classified as Ryotwari punja land, even though the buildings are constructed in and around the suit property, the suit property does not loose the character of 'Ryotwari punja' and in the absence of any evidence to prove that the suit property was used as house site, the plaintiff is entitled to treat the same as 'Ryotwari punja' property and court fee can be paid by multiplying the costs by 30 time.

Therefore, as per the above judgment, when the preliminary issue can be decided only if it is a pure question of law otherwise it cannot be decided as preliminary issue and it can be decided along with other issues."

12. I have carefully perused all the materials on record, judgments relied on by the counsel for the parties and arguments of the learned Senior Counsel appearing for the petitioner and the learned counsel appearing for the respondents.

13.The point for consideration is whether the court fee paid by the first respondent in respect of land in question is Ryotwari, is correct or whether the first respondent has to pay court fee on market value in view of buildings put up by the first respondent.

14.From the materials, it is seen that the land in question was originally Inam Lands. After abolition of Inams, the Government took the land and Settlement Officer issued Ryotwari patta to first respondent. The land is classified as Ryotwari punja lands. The first respondent is paying the land tax in respect of the said lands. The facts are not disputed. The first respondent has paid court fee for land at 30 times of land tax and on market value of building put up by the first respondent. According to the first respondent, the land in question is used as play-ground and no building is there in the land in question. The petitioner has not produced any document or evidence to show that apart from hospital building, there are other buildings in the suit land. From the judgments relied on by the learned Senior Counsel appearing for the petitioner as well as the learned counsel appearing for the first respondent, it is clear that the classification in Revenue Records is criteria for determining the court fee payable, unless it is proved that nature of land has been changed namely from Ryotwari land to house sites. The relevant sections of Tamil Nadu Court Fees and Suits Valuation Act to determine the present issues are Sections 7 and 25 of the Tamil Nadu Court Fees and Suits Valuation Act. These Sections are read 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.

(b)where the land is situated in an estate as defined in sub-section (2) of section 3 of the (Tamil Nadu) Estates Land Act, 1908 (Tamil Nadu) Act 1 of 1908), not being a land of the description mentioned in sub-clause (g) and such estate has been taken over by the Government under the (Tamil Nadu) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Tamil Nadu) Act XXVI of 1948)- thirty times the land revenue payable on the land under section 23 of that Act; but if a Ryotwari settlement has since been effected in pursuance of section 22 of that Act, in respect of such land, thirty times the assessment as so fixed;

(c) where the land is situated in an estate which became an estate under the (Tamil Nadu) Estates Land (Third Amendment) Act, 1936 (Tamil Nadu) Act XVIII of 1936)-thirty times the rent payable for the land fixed under the (Tamil Nadu) Estates Land (reduction of Rent) Act,1947 (Tamil Nadu) Act XXX of 1947;

(d)Where the land is an 'estate' as defined in the

(Tamil Nadu)Estates Land Act, 1908 (Tamil Nadu Act I of 1908)

(I) where separate peishkush is recorded in the Collector's register as payable for estate-thirty times such peishkush;

(ii)in any other case-thirty times the annual melvaram realizable from the estate;

(e) where the land is a minor inam held under inam title deed-thirty times the assessment as noted in the village 'B' Register;

(f)where the land is in an inam village which, is not an 'estate' as defined in sub-section (2) of section 3 of the (Tamil Nadu)Estates Land Act, 1908 (Tamil Nadu) Act I of 1908)-thirty times the rent payable in respect of it;

(g) where the land is a house-site whether assessed to full revenue or not, poramboke land, or is land not falling within the foregoing description-its market value.

25.Suits for declaration:- In a suit for a declaratory decree or order, whether with or without consequential relief, not falling under section 26

(a) where the prayer is for a declaration and for possession of the property to which the declaration relates, fee shall be computed on the market value of the property or on (rupees one thousand and five hundred) whichever is higher;

(b) where the prayer is for a declaration and for consequential injunction and the relief sough is with reference to any immovable property, fee shall be computed on one-half of the market value of the property or on (rupees one thousand), whichever is higher

(c) where the prayer relates to the plaintiff's exclusive right to use, sell, print or exhibit any mark, name, book, picture, design or other thing and is based on an infringement of such exclusive right, fee shall be computed on the amount at which the relief sought is valued in the plaint or on (rupees two thousand), whichever is higher;"

15. As per the Section 7(2)(a) of the Tamil Nadu Court Fees and Suits Valuation Act, where the land is Ryotwari land 30 times the survey assessment on the land has to be paid as Court Fee. In view of admitted fact that land in question is classified as Ryotwari Punja Land and not converted as House Sites, Section 7(2)(G) and Section 25 of the Tamil Nadu Court Fees and Suits Valuation Act are not applicable for computing court fee payable. The court fee has to be computed on the physical features of land as it exists at the time of filing of suit. The court should not take into account the probabilities of the use of the land in future or possibility of being used for any other purpose. The land in question will not loose its classification as Ryotwari Land, even though buildings are constructed in and around the suit property. Unless it is proved that the land in question is used as house sites, the first respondent is entitled to treat the same as Ryotwari punja land. Once the land is

classified as Ryotwari Punja land in Revenue Records it cannot be held for the purpose of a suit that the said land is not Ryotwari land.

16.The Judgements relied on by the learned Senior Counsel appearing for the petitioner is not applicable to the facts of the present case. In those cases, even though the land was originally classified as Ryotwari land, at the time of filing of suit, buildings were in existence. Hence it was held that Section 7 of the Act is not applicable. On the other hand, the judgement relied on by the counsel for the first respondent are squarely applicable to the facts of the present case. In these judgments it has been held that classification in Revenue Records must be basis for calculating the court fee. The Court should not venture into probabilities of future conversion of land as House Sites. The nature of land at the time of filing of suit alone is the criteria and if there is no conversion of nature of land, the revenue records alone has to be considered for calculating Court Fee.

17.It is well settled that only a pure question of law can be decided as preliminary issue. In the present case whether the land in question is used as play-ground or building are put up and rented out or not is a question of fact, which cannot be decided without evidence being let in.

18. The learned Sub Judge has appreciated all the materials and facts in proper perspective and held that the first respondent has correctly paid the Court Fee as land is classified as Ryotwari Punja Land in Revenue Records. This conclusion is in consonant with various judgments rendered by this Court in respect of Section 7 and 25 of Tamil Nadu Court Fees and Suits Valuation Act. The learned Judge has exercised his power conferred on him in Civil Procedure Code and there is no infirmity or irregularity or illegality warranting interference by this Court. In the result, the Civil Revision Petition is dismissed.

19.It is represented that the suit is riped for trial and it was not proceeded due to pendency of Civil Revision Petition. In view of the dismissal of Civil Revision Petition, the Additional Sub Judge, Tirunelveli, is directed to conduct the trial as expeditiously as possible, in any event, not later than 31st July, 2016.

Sd/-
Assistant Registrar(R)

/True Copy/

Sub Assistant Registrar

To
The Additional Subordinate Judge, Tirunelveli

+1cc to Mr.J.Anandkumar, Advocate SR.No.9199
+1cc to Mr.S.S.Sundar, Advocate SR.No.9879

akm/08.03.2016/12p-4c/AAL/MPA/SAR-I

C.R.P(MD)No.2087 of 2015(PD)
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