

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1870 of 2015
& M.P.No.1 of 2015

K.S.Venkatraman ... Petitioner

Vs.

1.Jayalakshmi

2.Sathishkumar
(Represented by his power agent
Jayalakshmi)

3.Renganayagi

4.S.Gopalakrishnan

Usharani (died)

5.Shyamala

6.Rupeshkumar

7.Rajesh

8.Karthik

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the judgment dated 09.02.2015 made in O.S.No.97 of 2005 on the file of the District Munsif Court, Nagapattinam.

For Petitioner : Mr.Kumar and Baskar

For R1 : No appearance

For R3 to R8 : Mr.A.Saravanan

ORDER

Civil Revision Petition is filed against the judgment dated 09.02.2015 made in O.S.No.97 of 2005 on the file of the District Munsif Court, Nagapattinam.

2. The petitioner is second plaintiff, respondents 1 and 2 are defendants and respondents 4 to 8 are plaintiffs 1, 3 to 8 in O.S.No.97 of 2005 on the file of the District Munsif Court, Nagapattinam. The petitioner filed suit for recovery of possession. The respondents 1 and 2 filed written statement and are contesting the suit. In the written statement, apart from various averments, they also stated that value of the property is Rs.6,00,000/-, the petitioner and respondents 3 to 8 have not valued the property properly and have not paid proper Court fee. The petitioner and respondents 3 to 8 filed memo through their counsel. The learned Judge by order dated 09.02.2015 held that as per the value of the Court amin, the suit property is worth about Rs.2,92,725/- and the

learned District Munsif has no pecuniary jurisdiction and returned the plaint to the petitioner and respondents 3 to 8 with liberty to present the suit before proper forum.

3. Against the said order dated 09.02.2015 made in O.S.No.97 of 2005, the present Civil Revision Petition is filed by the petitioner/second plaintiff.

4. Heard the learned counsel for the petitioner and respondents 3 to 8 and perused the materials available on record. Though first respondent entered appearance through counsel, there is no representation on behalf of her. Though notice was served on the second respondent and his name has been printed in the cause list, there is no representation on behalf of the second respondent either in person or through counsel.

5. The contention of the learned counsel for the petitioner is that the suit was filed in the year 2005 and value as on date has to be considered for the purpose of pecuniary jurisdiction as well as for payment of Court fee. The Court amin has valued the suit property in the year 2015 and therefore, the value given by the Court amin is

not correct. This contention of the learned counsel for the petitioner has considerable force. In support of his contention, he has relied on the ***judgment of this Court dated 13.10.2017 made in C.R.P.(PD)No.169 of 2013 (Ezhilarasi v. Murugesan).***

6. From the impugned order of the learned Judge, it is seen that the learned Judge has stated that the petitioner was given an option as per the order dated 19.10.2009 for appointment of Advocate Commissioner to ascertain the value of the property by guideline or by making local enquiry or by other investigation as may be necessary and to take steps to direct the Court aamin to find out value of the property and one month time was given to the petitioner. Subsequently, the suit was dismissed for not taking steps and suit was restored to file as per order in I.A.No.215 of 2014 and petitioner and respondents paid batta only on 15.12.2014. The procedure adopted by the learned Judge is contrary to procedure contemplated under Section 19 of Tamil Nadu Court Fees and Suits Valuation Act, 1955. As per Section 19 of the Act, it is for the Court to hold such enquiry as it considers proper and may issue a commission to any proper person directing him to make such local or other investigation as may be necessary and to report to the

Court.

7. In the present case, the Court has not taken any steps to make enquiry to ascertain the value of the suit property. Further, the learned Judge has not considered objection of the petitioner and respondents 3 to 8 that value given by the Court amin is of the year 2015, whereas the value of the suit as on the date of filing of the suit in the year 2005 is proper value for determination of pecuniary jurisdiction and Court fee payable.

8. In view of the said objection and no finding is given by the learned Judge on the said objection, the impugned order is liable to be set aside and it is hereby set aside. The matter is remitted to the learned District Munsif, Nagapattinam, to follow the procedure contemplated under Section 19 of the Tamil Nadu Court Fees and Suits Valuation Act and to determine the value of the suit property as on the date of filing of the suit i.e., in the year 2005 either making enquiry of its own or appointing Court amin or any other fit person to ascertain the guideline value of the suit property and make necessary local enquiry. On ascertaining the value of the suit property as on the date of filing of the suit in the year 2005, the learned Judge is directed to pass orders as to whether the Court has

pecuniary jurisdiction or not or whether the plaintiffs are to pay deficit Court fee, if the District Munsif Court has pecuniary jurisdiction to entertain the suit.

9. With the above direction, the Civil Revision Petition is allowed. The Registry is directed to return the plaint immediately to the petitioner. The petitioner is directed to represent the plaint before the learned District Munsif, Nagapattinam, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

12.12.2017

Index : Yes/No

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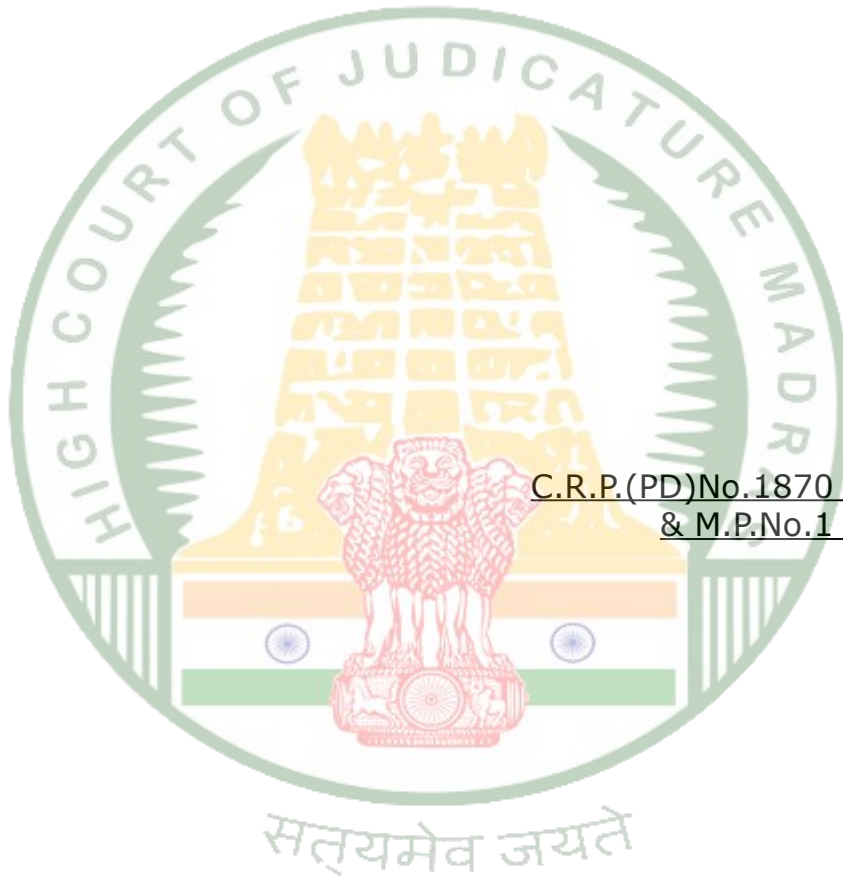
To

The District Munsif, Nagapattinam.

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V.M.VELUMANI, J.

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