IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD) No.4451 of 2012
M.P.No.1 of 2012

R.Poonkulazhi .. Petitioner

Vs.

Rani Deivanai .. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 31.10.2012 made in I.A.No.71 of 2012 in O.S.No.174 of 2010 on the file of the Principal District Judge, Namakkal.

For Petitioner : Mr.T.Dhanyakumar

For Respondent : No appearance

Mr.M.Venugopal
Special Government Pleader (CS)
Vide order dated 11.12.2012

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 31.10.2012 made in I.A.No.71 of 2012 in O.S.No.174 of 2010 on the file of the Principal District Judge, Namakkal.

2. The petitioner is the plaintiff and respondent is the defendant in O.S.No.174 of 2010, on the file of the Principal District Judge, Namakkal. The petitioner filed the said suit against the respondent for partition, claiming ½ share of the suit property. A preliminary decree was passed on 28.03.2011. The petitioner filed I.A.No.426 of 2011 for passing a final decree by appointing an Advocate Commissioner to divide the suit properties into 2 equal shares and to allot the share of the petitioner and give possession of the same. According to the petitioner, the petitioner filed memo of compromise in I.A.No.71 of 2012, praying for final decree based on the compromise. The petitioner submitted stamp papers worth Rs.8/- and Rs.20/- for incorporating final decree. According to the petitioner, as the final decree is to be passed in respect of agricultural land, as per the Schedule 1 of the Article 45(b) of the Indian Stamp Act, 1899, the value of agricultural land has to be calculated at 25 times the kist paid. As per the said calculation, the value of the property is only Rs.121.25/-. The petitioner deposited necessary stamps. The office raised objection, stating that the market value of the property is Rs.11,00,000/- and hence, the petitioner has to pay stamp duty at the rate of 4% for Rs.11,00,000/-.

3. The learned Judge, considering the contention of the petitioner, the objection raised by the office and Article 45(b) of the Schedule 1 of Indian Stamp Act, held that the petitioner has to pay the stamp duty at the rate of 4% for Rs.11,00,000/-, (i.e.,) on the market value of the agricultural land.

4. Against the said order dated 31.10.2012 made in I.A.No.71 of 2012 in O.S.No.174 of 2010, the present Civil Revision Petition is filed by the petitioner.

5. Heard the learned counsel appearing for the petitioner and Mr.M.Venugopal, Special Government Pleader (CS) and perused the materials available on record.

6. The contention of the petitioner is that the value of the property is only 25 times the kist paid by the petitioner as per the Article 45(b) of Schedule 1 of Indian Stamp Act. The learned Judge has extracted the proviso of the Article 45(b) of Schedule 1 of Indian Stamp Act which reads as hereunder:

"*Where the land is held on Revenue settlement* *and paying the full assessment or is an Inam land assessed under the Tamil Nadu Inams (Assessment) Act, 1956 (Tamil Nadu Act XL of 1956), the value for the purpose of duty shall be calculated at twenty five time the annual revenue."*

As per this proviso, the Agricultural land is not covered and petitioner has to pay stamp duty on the market value of Agricultural land. The learned Judge has properly interpreted the Article 45(b) of the Indian Stamp Act and directed the petitioner and respondent to pay the 4% of Rs.11,00,000/-, being the value of agricultural land. In the circumstances, there is no illegality or irregularity warranting interference with the order of the learned trial Judge dated 31.10.2012.

7. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

15.09.2017

Index: Yes/No

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To

The Principal District Judge,
Namakkal.

V.M.VELUMANI,J.

gsa

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