



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP(MD) No. 129 of 2017 (PD)

K. Natarajan @ LIC Natarajan ..Revision Petitioner/Plaintiff

Vs.

1.R.Papathi

2.S.Sivashanmugam

.. Respondents /Defendants

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India praying to direct the trial Court to number the un numbered suit filed by the revision Petitioner in SR.No.10477 of 2016 on the file of the District Munsif, Karur.

For Petitioner

:Mr.K. Suresh

O R D E R

This Civil Revision Petition is filed to to direct the trial Court to number the un numbered suit filed by the revision Petition in SR.No.10477 of 2016 on the file of the District Munsif, Karur.

2. The petitioner filed plaint SR.No.10477 of 2016, on the file of the District Munsif, Karur, for a declaration that decree dated, 08.11.2011, passed in O.S.No.30 of 2011, is null and void and for a declaration that the petitioner is absolute owner of the suit property, by virtue of release deed dated 04.02.2011 bearing Document No.136 of 2011. The learned District Munsif returned the plaint on various dates, raising various queries as to maintainability of the suit. The petitioner re-presented the same submitting his explanation. The learned Judge finally returned the plaint on 16.12.2016, on the ground that value of the immovable property is Rs.9,00,000/-, as per Document No.4, in the plaint. As per the value, the District Munsif has no pecuniary jurisdiction to entertain the suit.



3. Against the said return dated 16.12.2016, the petitioner has come out with the present Civil revision petition.

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4. The learned counsel appearing for the petitioner submitted that the learned Judge has failed to consider Section 7 of the Tamil Nadu Court Fees and Suit Valuation Act, 1955. The suit can be valued at 30 times of the survey assessment of the land, if the land is Ryotwari land and the Court fee paid on the 30 times of Kist. The learned Judge failed to consider the judgment of this Court reported in **2010(2) MLJ 535** wherein this court held that as per Section 7(2) of the Court Fees Act, Court Fee be paid on the basis of the 30 times of the Kist is correct. The learned Judge repeatedly returning the plaint raising new queries, which is contrary to Judgment of this Court reported in 2009(5) LW 67.

5. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

6. The petitioner has filed suit for declaration declaring the Judgment and decree dated 08.11.2011 passed in O.S.No.30 of 2011 on the file of the District Court, Karur is null and void and for a declaration that the petitioner is absolute owner of the suit property, by way of release deed, dated 04.02.2011, bearing Document No.136 of 2011. As far as first prayer is concerned, declaration sought for by the petitioner is in fact for cancellation of decree. In that case, petitioner has to value the suit, as per Section 40 of the Tamil Nadu Court Fees and Suits valuation Act, 1955.

7. The second prayer of the declaration is that he is absolute owner of the suit property, which are immovable property. In that case the petitioner has to pay the Court fee as per Section 25(b) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955, As per Section 25(b) of the said "Act", petitioner has to pay half of the market value of the property or Rs.1,000/- whichever is higher. Admittedly, as per Documents 4 and 5 filed along with plaint, the value of the 2/3 share released in favour of the petitioner is Rs.6,00,000/-. Therefore, value as mentioned by the petitioner cannot be taken as correct value. The contention of the petitioner is that the value of the property has to be calculated only 30 times of the Kist is not correct. The learned District Munsif is correct in holding that value of the property is more than pecuniary jurisdiction of the Court. There is no error in the



return order dated, 16.12.2016, passed by the learned District Munsif, Karur. The learned Judge has exercised his power conferred on him properly and there is no irregularity or illegality warranting interference by this Court.

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8. In the result, the Civil Revision Petition is dismissed. No costs. It is open to the petitioner to present before the concerned Court.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

TRP

To

The District Munsif, Karur.

GJM/SKN/RSK/15.3.17-3p-2C

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