



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2017

CORAM :

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

C.R.P. (PD) (MD) No. 245 of 2017

and

C.M.P. (MD) .Nos. 2636 and 1129 of 2017

WEB COPY

1. Tamilselvi
2. Thiagarajan
3. Lakshmi

... Petitioners

Vs.

1. Moorammal
2. Sakthivel

... Respondents

Prayer in C.M.P. (MD) .No. 2636/2017: The Civil Miscellaneous Petition filed to set aside the order of dismissal for default passed by this Court, on 09.02.2017 and to restore C.R.P. (MD) .No. 245 of 2017 on file.

Prayer in C.R.P. (MD) .No. 245/2017: The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair order and decretal order dated 30.11.2016 in I.A.No. 435 of 2016 in O.S.No. 97 of 2014 on the file of the District Munsif Cum Judicial Magistrate, Keeranur.

For Petitioners : Mr. R. Paranjothi

O R D E R

The learned counsel for the revision petitioners submits that due to non-appearance, on 09.02.2017, the revision petition was dismissed for-default and if the Court permits the revision petitioners, he will submit his argument and canvass the merit of his case.

2. Conceding the counsel's request, C.M.P. (MD) No. 2636 of 2017 to restore Civil Revision Petition is allowed.

3. Heard the submission of the learned counsel for the revision petitioner.

4. The defendants in the suit, are the revision petitioners herein. They had taken out an application to frame preliminary issue regarding suit valuation and determine the pecuniary jurisdiction. Since the application was filed belatedly after examination of D.Ws. 6 and 7, the trial Court referring Section 12 (2) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955, has rejected the plea.

5. For better understanding and appreciation of the issue in hand, sections 12(2) and 12(3) of the Tamil Nadu Court Fees and Suits Valuation Act is extracted below:



"(2) Any defendant may, by his written statement filed before the first hearing of the suit or before evidence is recorded on the merits of the claim but, subject to the next succeeding sub-section, not later, plead that the subject-matter of the suit has not been properly valued or that the fee paid is not sufficient. All questions arising on such pleas shall be heard and decided before evidence is recorded affecting such defendant, on the merits of the claim. If the Court decides that the subject-matter of the suit has been properly valued or that the fee paid is not sufficient, the Court shall fix a date before which the plaint shall be amended in accordance with the Court's decision and the deficit fee shall be paid. If the plaint be not amended or if the deficit fee be not paid within the time allowed, the plaint shall be rejected and the Court shall pass such order as it deems just regarding costs of the suit.

(3) A defendant added after issues have been framed on the merits of the claim may, in the written statement filed by him, plead that the subject matter of the suit has not been properly valued or that the fee paid is not sufficient. All questions arising on such pleas shall be heard and decided before evidence is recorded affecting such defendant, on the merits of the claim, and if the Court finds that the subject matter of the suit has not been properly valued or that the fee paid is not sufficient, the Court shall follow the procedure laid down in sub-section (2)."

6. Since the plea of under valuation has been raised by the defendants belatedly in I.A.No.435 of 2016 nearly after 12 years of filing the suit, the trial Court has held that it cannot be considered after commencement of trial. This Court finds that the finding of the trial Court refusing to take up the suit valuation as a preliminary issue is well justified and in consonance to the provision of law. So the reasons stated in the impugned order does not require any interference. The Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition No.1129 of 2017 is closed.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

The District Munsif cum Judicial Magistrate,
Keeranur, Pudukkottai.

AKV

<https://hcmj.court.gov.in/Service/27.04.2017/2P/2C>

C.R.P. (PD) (MD) No.245 of 2017

24.03.2017