



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 17.04.2018
DELIVERED ON : 14.09.2018

WEB COPY

CORAM
THE HON'BLE MR. JUSTICE M.V.MURALIDARAN
C.R.P. (MD) (PD) No.2050 of 2015

Vijayalakshmi

... Petitioner

vs

- 1.Meenakshi Sundaram
- 2.Uma Devi
- 3.Rathinasabapathy
- 4.Dharmalingam
- 5.Sankaranarayanan
- 6.Meenakshi Sundaram
- 7.Piramu W/o S.T.Sankarakumar
- 8.Natarajan
- 9.Rajagopal
- 10.Sakthivel
- 11.Subbiah
- 12.Valliammal
- 13.Kavitha
- 14.Subramanian
- 15.Lakshmi
- 16.Seethalakshmi
- 17.Piramu W/o Rajnarayanan
- 18.Dharmalingam
- 19.Manickavasagam
- 20.Minor.Dharmalingam
- 21.Minor.Natarajan

(Minor respondents 20 and 21 are represented through
their father and natural guardian D.Manickavasagam,
the 19th respondent)

- 22.Kandasamy
- 23.Minor.Rajalakshmi
- 24.Minor.K.Raja

(Minor respondents 23 and 24 are represented through
their father and natural guardian D.Kandasamy,
the 22nd respondent)

- 25.Lakshmiammal
- 26.Indian Overseas Bank,
Sankarankovil Branch,
Main Road, Sankarankovil,
Tirunelveli-District.

.. Respondents

Prayer: Civil Revision Petition filed under Section 115 of C.P.C.,
<https://hcservices.ecourts.gov.in/hcservices/>
against the order passed in O.S.No.65 of 2006 dated 29.06.2012 on
the file of the Sub Court, Sankarankovil.



For Petitioner

: Mr.F.X.Eugene

ORDER

The plaintiff aggrieved over the Order of return of her plaint under Order VII Rule 10 of C.P.C. by the learned Sub Court, Sankarankoil citing want of pecuniary jurisdiction, is before this Court by way of this Civil Revision.

2.The Revision petitioner claiming the suit schedule properties as her ancestral properties had filed the above suit in O.S.No.65 of 2003 for Partition by metes and bounds and also for permanent injunction restraining alienation of suit schedule properties.

3.I heard Mr.F.X.Eugene, learned counsel for the petitioner and perused the materials available on record. (No vakalath for the respondents).

4.The sum and substance of the contention made by the Learned Counsel for the petitioner as follows:

- I) The Learned Trial judge had returned the plaint on surmise and presumption.
- II) When the suit properties' value is not supported at a higher value by Documentary evidence, the plaint ought not to have been returned.
- III) Returning of plaint without mentioning the Appropriate Court to which the suit to be presented and without mentioning the time within which the plaint to be presented is erroneous.

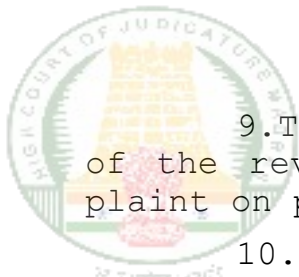
Thus he seeks to set aside the Order of the Court below made under Order VII Rule 10 of C.P.C.

5.On perusal of the impugned Order it is seen that the Court below namely learned Sub Court, Sankarankoil has returned the petitioner's plaint for want of pecuniary Jurisdiction.

6.On careful scrutiny of the valuation of the suit schedule property and in as much as the Court fee paid, it is found that the suit properties are valued at Rs.24,50,000/- by the revision petitioner and by way of claiming 1/49th share over the properties, Rs.50,000/- was determined as face value of revision petitioner's share and accordingly Court Fee was calculated and paid.

7.From reading through the impugned Order, it is assessed that the Court below have come to the decision as to value of the Suit properties on the basis of the version of the revision petitioner herself.

8.In the instant suit, the plaintiff who had examined herself as PW1 has specifically stated as to value of the suit property at the time of filing of the suit in the year 2003 is Rs.8 Crore and the same would be around Rs.40 Crore at the contemporary period of her cross examination.



9. Thus this Court do not find any merit over the contention of the revision petitioner that the Court below had returned the plaint on presumption and assumption.

10. In considering the second contention of the revision petitioner that the value of the suit is calculated without basis upon documents or without even appointing an Advocate commissioner to ascertain the market value, undeserving for consideration as it is the duty of the Plaintiff to come before a Court of Law with clean hands and actual facts.

11. In as much as the third contention of the revision petitioner that the suit is returned without mentioning the time limit and appropriate Court to which the plaint ought to be filed, on careful examination of the impugned order, this Court finds that the Court below has ordered the plaint to be filed within two months from the date of return before appropriate Court.

12. In so far as the non-mentioning of a Specific Court to which the plaint to be filed is concerned, this Court is of the firm opinion that such flimsy, weak and fragile ground cannot sustain scrutiny in view of the fact that the plaintiff / revision petitioner herself has not given or established the actual value of the suit property. In such circumstance, I do not find any infirmity or irregularity over the impugned Order.

13. In the result, the revision petition fails and the same is hereby dismissed, however, the revision petitioner is at liberty to present the plaint after proper valuation of the suit properties before the appropriate Court within a period of two months from the date of receipt of this Order Copy and in such case the Limitation shall be excluded till the time stipulated in this civil revision petition to present the suit. No costs.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar(CS-III)

To

The Sub Court, Sankarankoil.

VSV

DS SKN SAR3 16 10 2018 3P 2C

order made in
C.R.P. (MD) (PD) No.2050 of 2015