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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 27.08.2018

DELIVERED ON : 17.09.2018

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (PD) (MD) No. 772 of 2015

and

M.P. (MD) No. 1 of 2015

S. Anuradha .. Petitioner / Plaintiff
Rep by her power of Attorney P. Sankaran

Vs.

1. D. Subba Reddy
2. Lilly Sleth Mary @ Saleth Mary
3. Jesudasan
4. Chandran
5. Essra George
6. Olive Jameemal Padmani
7. Win Walter
8. Martin
9. Emalda
10. Hassina

.. Respondents/Defendants

Prayer : This Civil revision petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 04.07.2014 made in I.A.No.268 of 2014 in O.S.No.84 of 2013 on the file of the I Additional District Judge (PCR), Thiruchirappalli.

For Petitioner : Mr. P. Arun Jayartram
For Respondents 1, 2, 4, 6 to 10 : No Appearance
For Respondents 3 and 5 : Dismissed vide order dated 14.12.2017

ORDER

Heard Mr. P. Arun Jayartram, learned counsel appearing for the petitioner.

2. This petition has been filed to set aside the fair and decreetal order dated 04.07.2014 made in I.A.No.268 of 2014 in O.S.No.84 of 2013 on the file of the I Additional District Judge (PCR), Thiruchirappalli.



3.The petitioner filed a suit in O.S.No.57 of 2013 for declaration and permanent injunction before the Vacation Judge, Trichy and then the same was transferred to the learned I Additional District Judge, Trichy and was re-numbered as O.S.84 of 2013.

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4.On the side of the petitioner, it is stated that due to urgency, the petitioner filed a suit before the learned Vacation Judge, Trichy and the valuation of the suit is Rs.9,00,000/- (Rupees Nine Lakhs only) which is within the pecuniary jurisdiction of the Sub Court, Trichy. After opening of the Court instead of posting the case before the Sub Court, Trichy, the case was posted before the I Additional District Court, Trichy and the suit has to be sent to the Sub Court, Trichy. With regard to the jurisdiction and prayer, the case has to be removed from the list dated 09.04.2014.

5.The petitioner had paid the Court fee for Rs.9,00,000/- (Rupees Nine Lakhs only) which is half of the total valuation of the suit property. Section 25(b) of the Tamil Nadu Court Fees and Suits Valuation Act provides that where the prayer is for a declaration and for consequential injunction and the relief sought is with reference to any immovable property, fee shall be computed on one half of the market value of the property or on rupees one thousand, whichever is higher. The lower Court has observed that the suit property is Rs.18,00,000/- (Rupees Eighteen Lakhs only) and the jurisdiction is determined only based on the suit valuation and not based on the Court fee and the lower Court has dismissed the petition.

6.On the side of the petitioner, it is further stated that the learned I Additional District Judge has no jurisdiction to entertain the petition and the valuation of the suit property is Rs.9,00,000/- (Rupees Nine Lakhs only) and the Court fee is paid under Section 24(b) of the Court Fee Act. The petitioner is entitled to half share of the property. Therefore, the value of the suit is only Rs.9,00,000/- (Rupees Nine Lakhs only) and prayed the petition to be allowed.

7.Records perused. A perusal of the records reveals that the petitioner has not stated the sale consideration in the plaint. In Paragraph No.16 of the plaint, the valuation of the suit for purposes of Court Fees is mentioned. In the details of valuation, it is stated that the market values of suit property is Rs.18,00,000/- (Rupees Eighteen Lakhs only) and the Court fees was paid only half of the market value. The claim of the petitioner in the petition is that the value of total schedule property is Rs.18,00,000/- (Rupees Eighteen Lakhs only). The petitioner is entitled to half of the share as per O.S.No.474 of 1988 on the file of the learned I Additional Sub Judge, Trichy and therefore, the value of the suit is only Rs.9,00,000/- (Rupees



Nine Lakhs only). Since the petitioner is making two different stands before the lower Court and before this Court, this Court cannot decide the fact as to the value of the property. No documents is filed to prove the value of the property. This matter is remanded back to the learned Principal District Judge, Trichy to value the property based on the record and to pass a Speaking Order after fixing the value of the property. With the above directions, this Civil Revision Petition is disposed of. No Costs. Consequently, M.P.(MD)NO.1 of 2015 is closed.

Sd/-

Assistant Registrar(CS I)

/True Copy/

Sub Assistant Registrar(CS II)

To

The I Additional District Judge(PCR), Thiruchirappalli.

1CC TO MR. P ARUN JEYATRAM, ADVOCATE SR NO.85338

Mrn

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C.R.P. (PD) (MD) No.772 of 2015
17.09.2018