



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 10.08.2018
CORAM :
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) No.2179 of 2016

WEB COPY

V.Sundaravel

.. Petitioner/Plaintiff

vs.

1.Pushba @ Lakshmi

2.S.Tamilselvam

3.G.Mariselvi

4.D.Thiruppathi

5.A.Jesu @ Jesuraj

6.J.Murugeswari

7.G.Rathinakumar

8. A.Swaminathan

9. Sakthivel

10.M.Deiventran

11.T.Seenivasan

12.S.Ramadevi

13.T.Satheeswaran

14.T.Saravanan

15.S.Vijayalakshmi

.. Respondents/Defendants

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the learned Sub-Judge, Sivakasi to number the plaint filed by the petitioner in unnumbered O.S.No. Nil of 2016 in CFR No.2155 of 2016 filed on 05.07.2016 on the file of the Sub Court, Sivakasi.

For Petitioner	: Mr.K.Sudalaiyandi
For Respondents 1 &2	: Mr.T.Senthil Kumar
For Respondent No.3	: No appearance
For Respondents 4 to 15	: Dispensed with

ORDER

The revision petitioner herein filed CFR.No.2155 of 2016 for the relief of partition and separate possession and also for a declaration that the sale deed bearing Document Nos.3573/2008 and 3574/2008 on the file of the Sub Registrar Office, Thiruthangal is null and void. The court below declined to number the said plaint. It returned the same on the ground that the plaintiff himself valued



the sale under Section 40 of the Tamilnadu Court fees and Suits Valuation Act, 1955 (hereinafter it is referred to as "The Act"). The petitioner herein insisted that he would value the same only under Section 25(d) of the Act. Therefore, the court below once again returned the plaint. This is under challenge in this civil revision petition.

2. The revision petitioner had been in custody since 1994. He was granted bail by the Hon'ble Supreme Court of India on 13.02.2015. The learned counsel for the revision petitioner produced a copy of the order, dated 13.02.2015 passed by the Hon'ble Supreme Court of India in W.P.(Crl).No.157 of 2013. Thus it is beyond dispute that on the date of execution of the suit sale deed, the revision petitioner was in custody. It is not as if the revision petitioner had come out on parole or bail on the said date and executed the sale deed and he is now seeking to cancel the sale deed.

3. The order of the Hon'ble Supreme Court categorically states that the revision petitioner could not come out on bail since 1994. Therefore, in view of the very denial of execution of the suit sale deed by the revision petitioner, the plaint can be valued only under Section 25(d) of the Act and not under Section 40 of the Act.

4. The learned counsel appearing for the revision petitioner relied on a decision reported in 2011 (6) MLJ 399 in the case of G.Seethadevi vs. R.Govindaraj and others. It has been held by a learned Judge of this Court that when the plaintiff does not admit the execution of the document in question, the Court would not be justified in directing him to pay the Court fee under Section 40 of the Act. The said decision is squarely applicable to this case. Hence, the Registry is directed to return the original plaint to the learned counsel appearing for the revision petitioner immediately. As and when the revision petitioner re-presents the said plaint, the Court below is directed to number the same, take it on file and dispose it of in the manner known to law.

5. This Civil Revision Petition stands allowed accordingly.
No Costs.

Sd/-
Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Sub Judge,
<https://hcservices.ecourts.gov.in/hcservices/>
Sivakasi.



2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(2 copies)**

(To Return the Original plaint to the learned
counsel for the revision immediately.)

+1CC to Mr.K.Sudalaiyandi, Advocate, SR.No. 78011

C.R.P. (MD) No.2179 of 2016
10.08.2018

PJL
ES/KAK/SAR 3/30.08.2018/3P/5C