



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.10.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (PD) (MD) No.1801 of 2018

and

CMP(MD)No.7873 of 2018

E.Noor Mohamed

... Petitioner/Respondent/Plaintiff

Vs.

1.S.Ahamed Jalaudeen

2.A.Rahumath Nisha

... Respondents/Petitioners/
Defendants 3 and 4

Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and executable order dated 16.07.2018 passed in I.A No.468 of 2017 in O.S No.117 of 2015 on the file of the District Munsif Court, Ramanathapuram.

For Petitioner : Mr.J.Barathan for Mr.T.R.Jeyapalam
For Respondents : Mr.V.Sitharanjandas

ORDER

O.S No.117 of 2015 on the file of the District Munsif Court, Ramanathapuram was filed by the revision petitioner herein. The suit was instituted for the reliefs of declaration and permanent injunction. The revision petitioner had also sought to nullify two sale deeds dated 30.03.2015 executed by the defendants 1 and 2 in favour of the other defendants 2 and 3 respectively. In the said suit, the defendants filed I.A No.468 of 2017 under Order 14 Rule 2 (a) of CPC and Section 12(2) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955. The court below by order dated 16.07.2018 allowed the said I.A and directed the plaintiff to amend the plaint by showing the value of the suit property as Rs.6,08,925/- and to pay deficit court fee of Rs.21,335/-. Challenging the same, this civil revision petition has been filed.



3.The learned counsel appearing for the revision petitioner raised two contentions. He pointed out that the court below appeared to have been swayed by Ex.P1, the guideline value for the suit property. His second contention is that the value set forth in the sale deeds have been taken as the property value.

WEB COPY

4.The learned counsel appearing for the revision petitioner would also contend that the valuation of the suit property as given in the plaint has to be accepted as such. He pointedly contended that the guideline value cannot be relied upon for fixing the market value of the property. Since the plaintiff has challenged the very validity of the sale deeds dated 30.03.2015, the valuation set forth therein could not have determined the issue on hand. The defendants 1 and 2, according to the plaintiff, do not have any right over the suit property and the sale deeds executed by him indicating an inflated value cannot bind the plaintiff.

5.Though the submissions urged by the learned counsel for the plaintiff/revision petitioner do have considerable weight and force, I am of the view that the order passed by the court below has to be necessarily sustained. The suit has been instituted seeking the reliefs of declaration and permanent injunction. Declaration for nullifying the two sale deeds has also been sought. The property is not an agricultural land. Therefore, the market value of the property will have to be the basis for the suit valuation as well as payment of court fees.

6.The defendants have taken out an application taking the stand that the Court of District Munsif, Ramanathapuram may not have the pecuniary jurisdiction to try the suit in view of the market value of the suit property. It is open to the defendants to take out such application under Section 12(2) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955. When such an application was taken out, the plaintiff herein could have very well adduced evidence at the enquiry stage establishing that the suit property has been correctly valued in the plaint. On the side of the revision petitioner who was the respondent in I.A No.468 of 2017, no evidence was adduced. The revision petitioner did not get into the witness box. He did not mark any document.

7.In these circumstances, the only material available before the court below was Ex.P1, guideline value and the valuation set out in the suit sale deeds. The court below took them into account and in the absence of the contrary evidence from the plaintiff side, allowed the I.A. The approach of the court below cannot be faulted. There is nothing to interfere with the same. The order impugned in this civil revision petition is sustained.



8.This civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

WEB COPY

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-I)

To

The District Munsif,
Ramanathapuram.

+ 1 CC TO Mr.T.R.JEYAPALAM, ADVOCATE IN SR No. 89879
+ 1 CC TO Mr.V.SITHARANJANDAS, ADVOCATE IN SR No. 89971

SKM

TE/PM/SAR-1 : 31/10/2018 : 3P/4C

CRP (PD) (MD) No.1801 of 2018 and
CMP(MD)No.7873 of 2018
10.10.2018