



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2018
(Reserved on 08.12.2017)

WEB COPY

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP(PD) (MD)No.785 of 2011
and
MP(MD)Nos.2 and 3 of 2011

1)Ramachandran
2)Meenakshi Sundaram ... Revision Petitioners/Plaintiffs

vs .

1)Indirani
2)Leelavathi
3)Jayaraman ... Respondents/Defendants

Petition filed under Article 227 of the Constitution of India, against the fair and final order in I.A.No.107 of 2009 in O.S.No.27 of 2009 dated 02.09.2009 on the file of the Principal District Munsif Court, Manamadurai.

For Petitioners : Mr.D.P.Sundararaj for
M/s.A.Sivaji
For Respondents : Mr.S.Srinivasa Raghavan

ORDER

This Civil Revision Petition has been filed against the fair and final order in I.A.No.107 of 2009 in O.S.No.27 of 2009, dated 02.09.2009, on the file of the Principal District Munsif Court, Manamadurai.

2.The revision petitioners are plaintiffs and the respondents are defendants in O.S.No.27 of 2009 on the file of the District Munsif Court, Manamadurai. The suit was filed for declaration and permanent injunction in respect of the suit property. Pending suit, the defendants filed I.A.No.107/09, raising the preliminary issue as to whether the learned District Munsif, Manamadurai, has pecuniary jurisdiction to try the suit, contending that court fee paid on the basis of kist amount paid in respect of the suit property is not correct, as it was determined 10 years ago while the suit property was classified as nanja land and now the same has been classified as house-site and value of the suit property



is fixed at Rs.90/- per square feet and the total value of the suit property measuring 45 cents comes to Rs.17,65,800/- ($90 \times 436 = 39240 \times 45$). Therefore, the District Munsif Court, Manamadurai, does not have pecuniary jurisdiction to try the suit.

3. The plaintiffs filed counter contending that the suit property was valued at Rs.1,000/- which is half of the kist of thirty times and accordingly, court fee was paid at Rs.75.50/- and they denied the contention of the defendants that the suit property was classified as house-site. According to the plaintiffs, as on today, the suit property is nanja land and they are harvesting paddy and paying kist for the suit property.

4. Before the learned District Munsif, the defendants examined the Junior Assistant from the Sub Registrar's office, who deposed that the suit property in S.No.222/4A is a house-site and its value has been fixed at Rs.90/- per square feet. On the contra, it was the contention of the plaintiffs that as on today, the suit property is a nanja land in revenue records and therefore, as per Section 7(2) of the Tamil Nadu Court Fees and Suits Valuation Act 1955, court fee has to be calculated on the basis of the kist amount of the suit property. However, the learned District Munsif repelling the said contention of the plaintiffs, observed that annual kist amount of the suit property is Rs.3.78/- and thirty times of which amounts to Rs.113.40 and half of it Rs.57/- and therefore, it is clear that the plaintiffs did not pay court fee based on the kist amount of the suit property and for the purpose of pecuniary jurisdiction, the plaintiffs valued the suit property at Rs.10,000/- and for half of the amount namely, Rs.5,000/-, court fee of Rs.375.50/- has been paid as per section 25(b) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955. Therefore, the learned Principal District Munsif holding that the defendants proved their case that on the date of filing of the suit namely, 18.02.09, the suit property was classified as house-site and its value was fixed at Rs.90/- per square feet and the total value of the suit property measuring 45 cents amounts to Rs.17,65,800/-, dismissed the suit stating that the Court does not have pecuniary jurisdiction to try the suit.

5. The only issue to be decided in this case is, whether the learned Judge was right in dismissing the suit, instead of returning the papers for filing it before the appropriate forum.

6. It is understandable that the pecuniary jurisdiction of the learned Principal District Munsif, Manamadurai, is at Rs.1,00,000.-. Even in the memorandum of revision petition, the revision petitioners themselves have averred that the suit cannot be dismissed and the proper course would be to return the plaint for presentation before the proper court on account of pecuniary jurisdiction. Therefore, without going into the merits of the



case, this Court is of the view that ends of justice would be met by setting aside the impugned order and directing the Court below to return the papers to the plaintiffs for filing it before the appropriate forum.

7. Accordingly, the order impugned in I.A.No.107 of 2009 in O.S.No.27 of 2009 dated 02.09.2009 on the file of the Principal District Munsif Court, Manamadurai, is set aside and the learned Principal District Munsif Court, Manamadurai, is directed to return the papers in O.S.No.27 of 2009 to the revision petitioners for filing it before the appropriate forum.

8. The Civil Revision Petition is allowed with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-III)

To

The Principal District Munsif,
Manamadurai.

Copy To:-

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.A.SIVAJI, ADVOCATE IN SR No. 77838
+ 1 CC TO Mr.S.SRINIVASA RAGHAVAN, ADVOCATE IN SR No. 78039

BALA
TE/RP/SAR-3 : 23/08/2018 : 3P/6C

CRP (PD) (MD) No.785 of 2011
09.08.2018

(1/2)