

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2019

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

C.R.P(PD).No.1788 of 2015
and
M.P.No.1 of 2015

1.Seluvamma
2.Jayaprakash
3.Raghavendra
4.Soundaravalli

... Petitioners

Vs

1.K.R.Manjula
2.V.K.Venkatachalapathy Setty

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decretal order in I.A.No.517 of 2013 in O.S.No.83 of 2008 dated 04.02.2015 on the file of the District Munsif cum Judicial Magistrate, Denkanikottai.

For Petitioners : Mr.V.Raghavachari

For Respondents : Mr.S.Kumaresan

ORDER

The present Civil Revision Petition was listed for hearing on 06.08.2019 and was allowed after hearing the learned counsel for the petitioners. There was no representation for the respondents on the aforesaid date. After this case was disposed, the learned counsel for the respondents requested for listing the case for making his submissions. Accordingly, this case is listed today under the caption 'for clarification'. Hence the case is taken up for hearing.

2.The petitioners are aggrieved by the impugned fair and decretal order dated 04.02.2015 passed by the District Munsif cum Judicial Magistrate Court, Denkanikotta in I.A.No.517 of 2013 in O.S.No.83 of 2008.

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3.By the impugned order, the court has dismissed I.A.No.517 of 2013 in O.S.No.83 of 2008 filed by the petitioners under Order 7 Rule 11 r/w Section 151 of CPC, to reject the plaint in O.S.No.83 of 2008.

4.The said suit was filed by the respondents for the following reliefs:-

- i. To declare the plaintiffs/respondents right title over the suit property.
- ii. To pass permanent injunction against the defendants/petitioners to restraint from interfering the peaceful possession and enjoyment of the suit schedule property.
- iii. To cancel the decree dated 10.08.1992 in O.S.No.133 of 1992 on the file of the District Munsif Court, Hosur, and decree dated 13.08.2007 in O.S.No.11 of 2007 on the file of the same court.
- iv. To award the cost of the suit.

5.Paragraph No.11 of the plaint with reference to court fee reads as under.

The plaintiffs value the suit for the court fee and jurisdiction at Rs.2,000/- suit property is valued for on kist of Rs.18.11 multiple in to 30 Rs.450.30 Hal of the value of Rs.271/65 however it is valued for minimum value of Rs.1000/- for declaration plaintiffs right titile over the suit property Rs.75,50 paid under Section 25 (b) of T.N.C.F Act with consequent relief.

6.The petitioners filed their written statement and in the written statement they have raised an objection to the court fee paid by the respondents/plaintiffs. It was stated that on the date of filing the suit, the market value of the suit schedule property was more than 4,00,000/- and therefore the court fee has to be computed under Section 40 of the Tamil Nadu Court Fee and Valuation Act. It is submitted that the suit schedule property is capable of valuation.

7.Under these circumstance, the petitioners filed I.A.No.517 of 2013 under Order 7 Rule 11 r/w Section 151 of CPC, to reject the plaint on the ground that the court fee was under valued in the suit.

8.In the impugned order the court has merely reproduced Order 7 Rule 11 of CPC and has rejected the application.

9.The learned counsel for the petitioners drew my attention to the decisions of this court following as under:-

- i. **Sivagurunathan & Another vs S.Shanmugaraja,**
2012-4-L.W. 747.
- ii. **Shylaja and Ors vs Dr.D.Vivekanandan and Another**
in C.R.P.(PD).No.4501 of 2017 dated 24.09.2018.
- iii. **Pichaiammal and Ors vs Priya Aparna** in
C.R.P.(PD).No.2565 of 2015 dated 24.07.2019.

10.As there is no reasoning in the impugned order, it is liable to be set aside. The case is therefore remitted back to the trial Court to dispose the I.A.No.517 of 2013 in O.S.No.83 of 2008 within a period of four weeks from the date of receipt of a copy of this Order.

11.The Court shall pass a speaking order in I.A.No.517 of 2013 in O.S.No.83 of 2008 within aforesaid period. In case, it concluded there was indeed a deficit Court Fee, it shall give an opportunity to the respondents/plaintiffs to pay the same within stipulated time.

C.SARAVANAN.,J.

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12.The present Civil Revision Petition is allowed. No cost.
Consequently, connected Miscellaneous Petition is closed.

22.08.2019

Index: Yes/ No
Internet : Yes/No
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To

1.The District Munsif cum Judicial Magistrate Court,
Denkanikottai.

2.The Section Officer,
V.R. Section, High Court, Madras.

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