

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2019

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THE HONOURABLE **Ms.JUSTICE P.T.ASHA**

CRP(PD).No.252 of 2018

and

CMP.No.1429 of 2018

A.Balakrishna Reddy

..Petitioner/Defendant

Vs

K.Srinath

..Respondent/Plaintiff

This Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decreetal order passed in I.A.No. 335 of 2014 in O.S.No.37 of 2014, on the file of District Munsif-cum-Judicial Magistrate at Uthukottai, dated 01.08.2017.

For Petitioner : Mr.M.L.Ramesh

For Respondent : No appearance

ORDER

The above Civil Revision Petition is filed challenging the order passed in I.A.No.335 of 2019 in O.S.No. 37 of 2014, dated 01.08.2017, in and by which, the learned Judge had dismissed the application filed by the defendant seeking an enquiry into the Court fees paid, since the land in question, in this suit has not been properly valued.

2 A brief resume of the facts that has culminated into the filing of the suit is narrated herein below:

The respondent/plaintiff had filed the suit in O.S.No.37 of 2014 for a declaration of his right and title over the suit A and B Scheduled Properties, recovery of the vacant possession of B schedule property from the first defendant and for an injunction restraining the first defendant viz; the revision petitioner, his men and agents from alienating the suit property to any third parties and to direct the second defendant viz; the Tahsildar, Uthukottai to cancel the Patta No. 161 with regard to the suit property. The plaintiff has valued the suit at Rs.33,500/-, and has paid a Court fee of Rs.2516/- under Section 25(a) and Section 27C of the Tamil Nadu Court Fees and Suit Valuation Act. The plaintiff has valued the property on Kist basis and has valued the property at Rs.13.50/-, (Rs.0.45/- paisa 30 time kist value) and he has also valued the B schedule, which consist of a room and car shed. Therefore, the plaintiff has valued the property as an agricultural property.

3 The defendant had entered appearance in the suit and he has taken out this application to decide the issue of Court fees as a preliminary issue. In the affidavit filed in support of the said petition, the defendant/revision petitioner would submit that the

property in question is not an agricultural land and therefore, valuation on the basis of Kist is not maintainable and the property has been classified as a residential one and also the suit property in question consists of a building as well and therefore, the valuation done on the basis of a Kist is wrong. The same is resisted by the plaintiff, who would contend that land has been classified as punja land but the registration department has suo-moto converted the same into house sites and therefore, the valuation on the basis of Kist was correct.

4 In the said application the revision petitioner/defendant had summoned the official from the Sub Registrars Office, Uthukottai. In his deposition, even the Sub Registrar, has clearly admitted that the properties comprised in the said survey number in which suit property situated has been converted into house sites and the value of the same is Rs.100/- per sq.ft. Therefore, the value of the property would be more than what has been quoted as the suit value.

5 The learned District Munsif-cum-Judicial Magistrate Uthukottai, after hearing both parties, has dismissed the application on the ground that in the plaint, the respondent/plaintiff had clearly submitted that land was classified as an agricultural punja land in the

Revenue Records. Therefore, the valuation has been rightly done, the learned Judge also went on to hold that the suit property is agricultural land. Challenging the said order, the revision petitioner/defendant is before this Court.

6 The evidence of the Official of the Sub Registrars Office as well as guide line values would clearly show that the property in question has been reclassified as a Residential Class I Type I construction. The classification is as per the periodical revision in the revenue records. It is therefore clear from a perusal of this document that the property in question is no longer classified as Patta land, it has been classified as Residential Class I Type I and the same is also fortified by the evidence, which has been adduced by the official of the Sub-Registrar Office. Therefore, the finding of the learned Trial Judge that the property valuation has to be on the basis of the value given in the plaint is totally erroneous. The defendant has invoked provisions of Section 12(ii) in Tamil Nadu Court Fee and Suit Valuation Act, only on account of the fact that the suit has not been property valued . It is also seen that the suit is one for recovery of possession as well as injunction and therefore, the issue revolves around the suit property and the Court fees has to be properly determined so that the correct Court fee is paid. However, the learned Judge has erroneously come to the conclusion that for

the purpose of Court fees, it would be sufficient if the statement in the plaint is taken note of.

7 In the result, the Civil Revision Petition is allowed and the order passed in I.A.No. 335 of 2014 in O.S.No.37 of 2014, on the file of the District Munsif-cum-Judicial Magistrate at Uthukottai, dated 01.08.2017 is set aside. No costs. Consequently, connected miscellaneous petition is also closed.

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Index: Yes/No
Internet: Yes/No
Speaking order / Non-speaking order

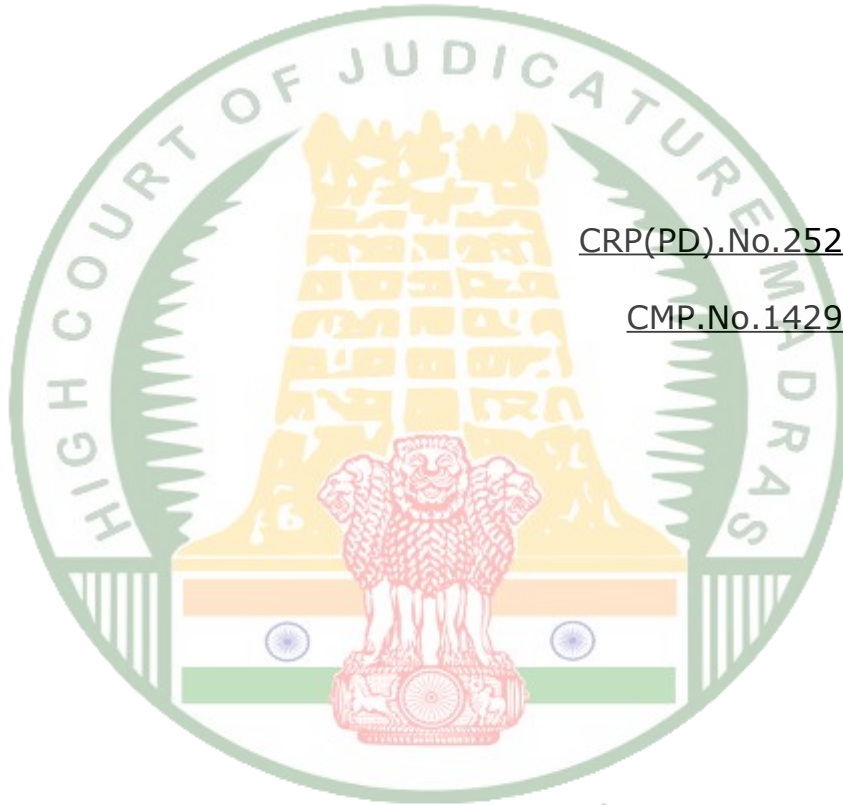
To

The District Munsif-cum-Judicial Magistrate,
Uthukottai.

19.03.2019

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P.T.ASHA, J.
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