

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2019

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

**C.R.P.(PD)Nos.1635 and 1233 of 2014
and M.P.No.1 of 2014
in C.R.P.(PD)No.1233 of 2014**

Muthu ...Petitioner in both the CRPs

vs.

1.K.M.Ramasamy

2.C.Ranganathan

3.The Commissioner of Land Administration
Chennai.

4.The Secretary, Government of Tamil Nadu,
Department of Revenue,
Fort St.George,
Chennai – 5.

5.The Director of Survey and Land Records,
Chepauk, Chennai – 5.

6.The Assistant Director of Survey and Land Records,
Salem at Salem 15.

7.The Assistant Director,
District Survey Office,
Namakkal.

8.The District Collector,
Namakkal at Collector's Office Compound,
Namakkal.

9.The District Revenue Officer,
Namakkal Collector's Office Compound,
Namakkal.

10.The Revenue Divisional Officer,
Tiruchengode,
Velur Road,
Tiruchengode Town & Taluk,
Namakkal District.

11.The Commissioner,
Tiruchengode Municipality,
Municipality Office,
Velur Road,
Tiruchengode Town & Taluk,
Namakkal District.

12.The Tahsildar,
Tiruchengode,
Taluk Office Compound,
Tiruchengode Town & Taluk,
Namakkal District.

...Respondents in both the CRPs

Prayer in C.R.P.(PD)No.1635 of 2014: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 03.01.2014 made in I.A.No.1206 of 2013 in O.S.No.310 of 2008 on the file of Additional District Munsif Court at Tiruchengode.

Prayer in C.R.P.(PD)No.1233 of 2014: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 07.03.2014 made in I.A.No.141 of 2013 in O.S.No.310 of 2008 on the file of Additional District Munsif Court at Tiruchengode.

For Petitioner in both the CRPs : Mr.T.L.Thirumalaisamy

For Respondents in both the CRPs: Mr.P.Valliappan for R1 & R2
Mr.N.Manikandan for R3 to R12
Government Advocate

COMMON ORDER

These Civil Revision Petitions have been filed challenging the impugned orders passed by the Additional District Munsif Court at Tiruchengode, allowing the amendment application I.A.No.1206 of 2013 filed under Order 6 Rule 17 CPC by the respondent Nos.1 and 2 and dismissing I.A.No.141 of 2014 filed by the petitioner under Order 14 Rule 1 CPC to frame "whether the suit is under valued and if so, whether the Court is having jurisdiction" and decide the said issue as a preliminary issue.

2.Heard, Mr.T.L.Thirumalaisamy, learned counsel for the petitioner, Mr.P.Valliappan, learned counsel for the respondents 1 and 2 and Mr.N.Manikandan, learned Government Advocate for the respondent Nos.3 to 12.

3.The petitioner who is the 11th defendant in the suit filed I.A.No.141 of 2014 in O.S.No.310 of 2008 under Order 14 Rule 2 of the Code of Civil Procedure, to frame the issue "whether the suit is under valued and if so whether the Court is having jurisdiction" as a preliminary issue.

4.I.A.No.1206 of 2013 has been filed by the respondent Nos.1 and 2, seeking for amendment of the plaint under Order 6 Rule 17 of the Code of Civil Procedure, seeking for additional declaratory reliefs and for consequential injunction. The trial Court dismissed I.A.No.141 of 2014 filed by the petitioner but has allowed I.A.No.1206 of 2013 filed by the respondent Nos.1 and 2.

5.It is the case of the petitioner that the trial Court lacks pecuniary jurisdiction to decide the suit subsequent to the filing of the amendment application, seeking for additional declaratory reliefs as the value of the suit will get enhanced. The trial Court has dismissed I.A.No.141 of 2014 on the ground that the issue raised by the petitioner can very well be agitated by the petitioner during the course of the trial and therefore, there was no necessity for the Court to frame an additional issue of lack of pecuniary jurisdiction as well as the under valuation of the suit.

6.It is also brought to the notice of this Court by the respective learned counsels that the plaintiff side evidence has commenced and in fact PW-1 has already been cross-examined. The main ground for opposing amendment application filed by the respondent Nos.1 and 2 in I.A.No.1206 of 2013 is that the proposed

amendment sought for by the respondent Nos.1 and 2 is barred by law of limitation. The trial Court has considered the affidavit and the counter affidavit filed in I.A.No.141 of 2014 and I.A.No.1206 of 2013 in the impugned order and has rightly observed the issue of limitation, lack of pecuniary jurisdiction of the Court as well as the under valuation of the suit can very well be agitated by the defendant during the course of the trial.

7.This Court does not find any infirmity in the impugned orders passed by the trial Court. However, it is made clear that the trial Court will have to consider all the aforesaid issues raised by the petitioner while deciding the suit along with other issues which were framed based on the pleadings filed by the respective parties of the suit.

8.With the aforesaid directions, the instant Civil Revision Petitions are disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

21.06.2019

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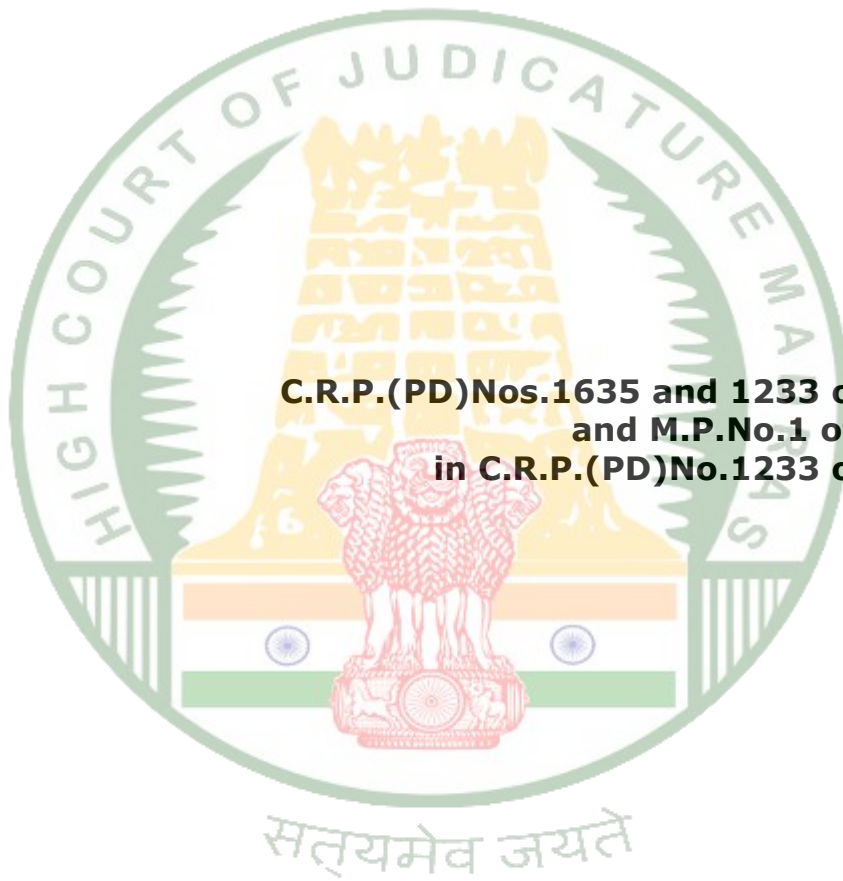
To

- 1.The Additional District Munsif Court at Tiruchengode.
- 2.The Commissioner of Land Administration, Chennai.
- 3.The Secretary, Government of Tamil Nadu,
Department of Revenue, Fort St.George, Chennai – 5.
- 4.The Director of Survey and Land Records, Chepauk, Chennai – 5.
- 5.The Assistant Director of Survey and Land Records,
Salem at Salem 15.
- 6.The Assistant Director, District Survey Office, Namakkal.
- 7.The District Collector,
Namakkal at Collector's Office Compound, Namakkal.
- 8.The District Revenue Officer,
Namakkal Collector's Office Compound, Namakkal.
- 9.The Revenue Divisional Officer, Tiruchengode, Velur Road,
Tiruchengode Town & Taluk, Namakkal District.
- 10.The Commissioner, Tiruchengode Municipality,
Municipality Office, Velur Road, Tiruchengode Town & Taluk,
Namakkal District.
- 11.The Tahsildar, Tiruchengode, Taluk Office Compound,
Tiruchengode Town & Taluk, Namakkal District.

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ABDUL QUDDHOSE, J.

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