

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2019

CORAM :

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.2268 of 2014
and M.P.No.1 of 2014

N.Mallakonda Prasad

... Petitioner

v.

1. Dr.N.Mallikarjuna Rao
2. N.Padmavathi Devi
3. N.Sarathi Chandra Babu
4. N. Sivakumar

[R2 to R4 brought on record as LRs of the
deceased sole respondent vide court order
dated 18.11.2019 made in C.M.P.Nos.118842
of 2016 in CRP (NPD) No.2268/2014]

... Respondents

Civil Revision Petition filed under section 115 of the Code of Civil Procedure against the fair and decretal order dated 05.12.2013 passed in I.A.No.106 of 2013 in A.S.No.34 of 2010 on the file of the Sub Court at Ponneri.

For Petitioner : Mr.Ravikumar
for Ms.T.Jayalakshmi

For Respondents : Mr.G.RM. Palaniappan – for R2 to R4
(R1 Died – steps taken)

ORDER

Challenging the fair and final order passed in I.A.No.106 of 2013 in A.S.No.34 of 2010 on the file of the Sub Court at Ponneri, the plaintiff in O.S.No.362 of 2007 on the file of the District Munsif Court, Ponneri, has filed the above Civil Revision Petition.

2.1 The plaintiff filed the suit in O.S.No.362 of 2007 for recovery of possession. After contest, the Trial Court decreed the suit. In the plaint filed in O.S.No.362 of 2007, the plaintiff has valued the suit at Rs.6,000/- taking into consideration the annual rental value and paid the court fee under section 30 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955. Even in the written statement, the defendant has taken a plea that the plaintiff has not paid the proper court fee. Subsequently, after the passing of the decree, the defendant filed an appeal in A.S.No.34 of 2010 on the file of the Sub Court, Ponneri.

2.2 In the First Appeal, the plaintiff took out an application in I.A.No.106 of 2013 under Order VI Rule 17 of the Civil Procedure Code to amend the valuation column by substituting the words as "Market Value of the Suit Sops" instead of "Annual rental value". Though the application was opposed by the defendant, the Lower Appellate Court allowed the application. Aggrieved over the same, the defendant has filed the above Civil Revision Petition.

3. On a perusal of the valuation column mentioned in the plaint, it could be seen that the plaintiff has valued the suit under section 30 of the Tamil Nadu Court Fees and Suits Valuation Act and valued the suit at Rs.6,000/- and paid the court fees thereon. Admittedly, the suit property is in Manali New Town, Chennai – 600 103. When the property is within the Chennai limits, the value of the property cannot be Rs.6,000/-. Therefore, I am of the considered view that the value of Rs.6,000/- mentioned in the plaint is incorrect.

4. In these circumstances, I am of the view that the order passed by the Lower Appellate court is liable to be set aside and the

matter should be remanded back to the Lower Appellate Court for fresh consideration.

5. Accordingly, the fair and decreetal order passed in I.A.No.570 of 2013 in A.S.No.34 of 2010 are set aside and the matter is remitted back to the Sub Court, Ponneri for fresh consideration. The respondent-plaintiff is directed to file appropriate application for amending the plaint by giving correct market value of the property. It is open to the petitioner-defendant to file counter and contest the application. The respondent shall file the application within a period of one week from the date of receipt of a copy of this order and the Sub Judge, Ponneri is directed to dispose of the same, within a period of three weeks thereafter.

With these observations, the Civil Revision Petition is allowed.

No costs. Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes / No
Speaking order / Non Speaking Order
Rj

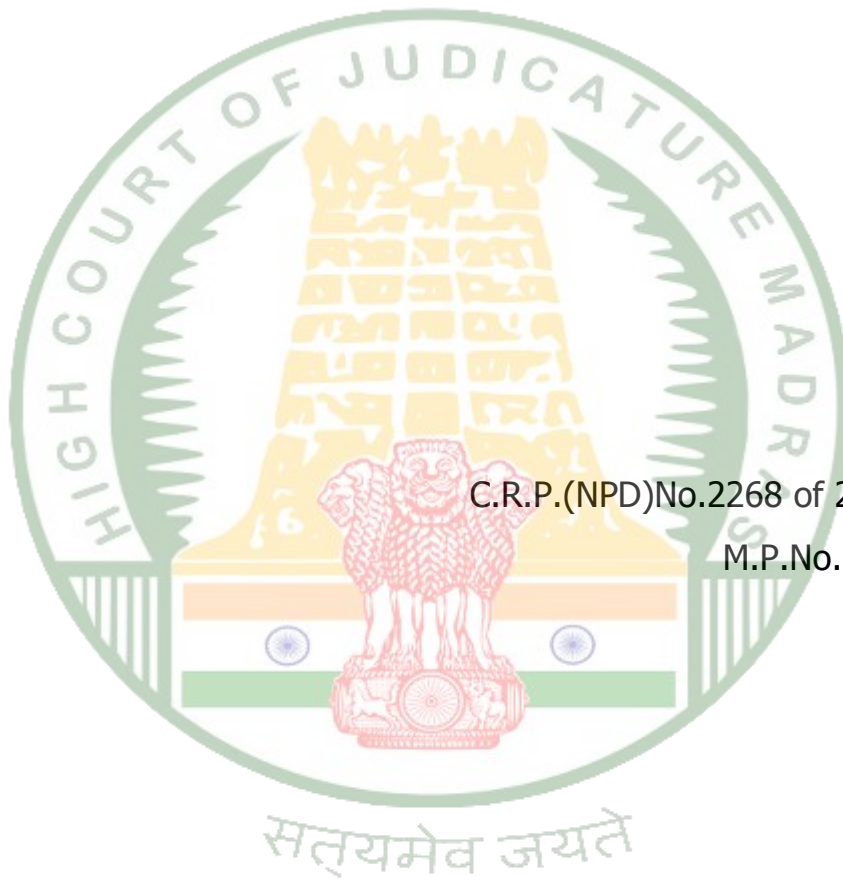
18.11.2019

To
The Sub Court,
Ponneri.

C.R.P.(NPD).No.2268 of 2014

M.DURAIWAMY, J.

Rj



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