

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

CRP.PD.No.2262 of 2019

Maragatham

... Petitioner

vs.

1.Sumathi

2.Minor Subika

Rep. by her mother Sumathi

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to direct the learned Subordinate Judge, Gobichettipalayam to number the suit filed in F.No.OS/397/2019, CNR No. TNED 090003592019.

For Petitioner : Mr.N.Manokaran

सत्यमेव जयते

ORDER

The civil revision petitioner is the plaintiff in unnumbered OS.No. /2019 on the file of the Subordinate Court, Gobichettipalayam. She filed the above suit for partition. The learned Subordinate Judge, Gobichettipalayam returned the plaint on 24.06.2019 with the following

observations:

"The Court Fee amendment act 2017 clearly says that "market value means the market value fixed under Section 47-AA of the Indian Stamp Act 1899 (Central Act II of 1899)

"provided that in case where the plaintiff assess the value of the immovable property at a lesser amount than the market value he shall give adequate reasons as to why the market value fixed under section 47-AA of the Indian Stamp Act 1899 (Central Act II of 1899) does not deprecate the real market value of the immovable property"

Hence, the guideline value of the property is to be filed. If, the plaintiff assess the value of the immovable property at a lesser amount than the market value he shall give adequate reasons as to why the market value fixed under section 47-AA of the Indian Stamp Act 1899 (Central Act II of 1899) does not deprecate the real market value of the immovable property. Then, the assessment made by the plaintiff will be accepted by the court. Hence, returned."

2. At this juncture, it is relevant to extract Section 7 of the Tamil

Nadu Court Fees and Suits Valuation Act, 1955:

"(1) Determination of market value - Save as otherwise provided, where the fee payable under this Act depends on the market value of any property, such value shall be determined as on the date of presentation of the plaint.

Explanation - For the purpose of this section, "market value" means the market value fixed under section 47-AA of the Indian Stamp Act, 1899 (Central Act II of 1899):

Provided that in cases where the plaintiff assess the value of the immovable property at a lesser amount than the market value, he shall give adequate reasons as to why the market value fixed under section 47-AA of the Indian Stamp Act, 1899 (Central Act II of 1899) does not represent the real market value of that immovable property.

(2) The assessment made by the plaintiff shall be accepted by the Court at the initial stage of numbering the suit, subject to objection that may be raised by the other party to the litigation."

3. Mr.N.Manoharan, learned counsel appearing for the revision petitioner / plaintiff relied on the decision in **Kamaleshwar Kishore Singh**

vs. Paras Nath Singh and others reported in **2001 (4) CTC 764** and contended that the valuation of suit for the purpose of payment of court fees should be based on the plaint as framed and not as it ought to have been framed.

4. A perusal of section 7 (2) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 shows that the assessment made by the plaintiff shall be accepted by the court at the initial stage of numbering the suit, subject to objection raised by the other party to the litigation. The learned Subordinate Judge, Gobichettipalayam without considering Section 7 (2) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 had directed the plaintiff to file the guideline value of the suit property. As per the plaint, the plaintiff's 1/3 share value is assessed at Rs.3,00,000/- (Rupees Three Lakhs only) and a sum of Rs.5,000/- (Rupees Five Thousand only) is paid as court fee under Section 7(2) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955. If the valuation done by the plaintiff is found to be lower than the market value or the guideline value, the necessary court fee can be collected from the plaintiff at any stage of the suit and the plaint need not be returned for this purpose. Therefore, the learned Subordinate Judge, Gobichettipalayam is directed to take up the plaint and proceed

further as per law.

5. With the above observations, the present Civil Revision Petition is allowed. No costs.

16.07.2019

mbi

Index : Yes/No
Speaking / Non-speaking order

Note: The Registry is directed to return the original plaint filed by the revision petitioner / plaintiff.

To

The Subordinate Court,
Gobichettipalayam.



WEB COPY

R.HEMALATHA, J.

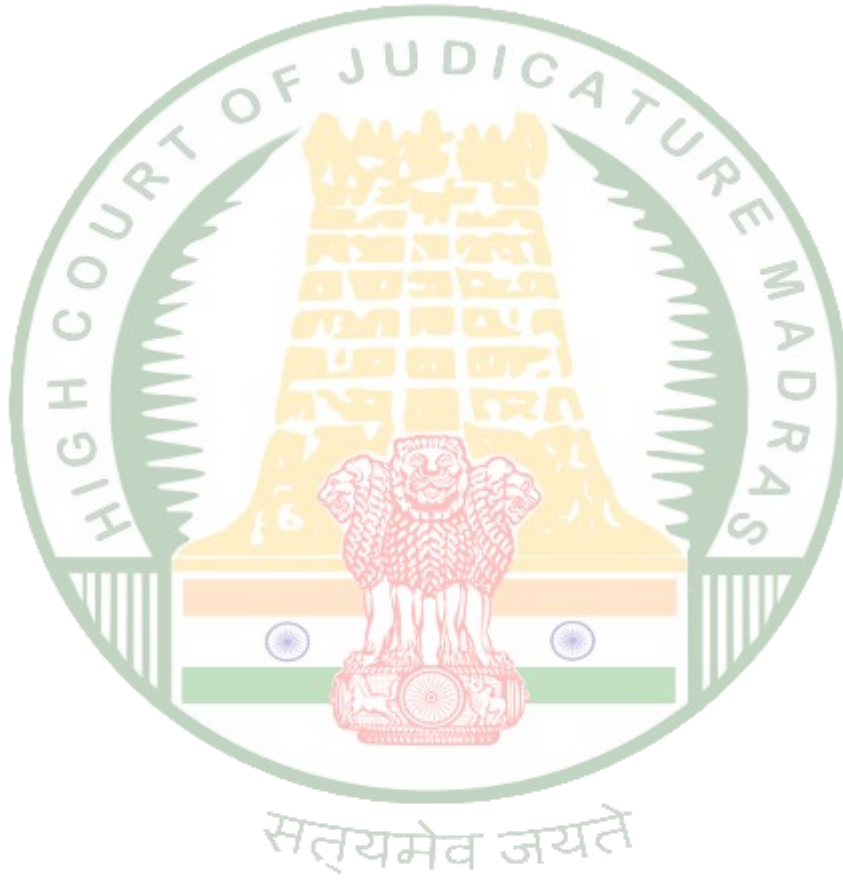
mbi



CRP.PD.No.2262 of 2019

WEB COPY

16.07.2019



WEB COPY