



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2019

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

CRP(MD) No.391 of 2019(NPD)

1.G.D.Kalaiselvan

2.Dr.Padrichia

... Petitioners/ Plaintiffs

vs.

1.G.D.Earnest Billigram

2.G.D.Gnanasekar

3.Ananthi Vijayakumari

4.Mallika

5.V.Radhamohan

6.The Manager,
M/s.Golden India Mines & Infra Structures Limited,
No.2H, Prince Arade Cathedral,
Teynampet,Chennai-86.

7.The Director,
(M/s.Standard Fire Works (P) Limited)
No.1/3, Sivakasi to Thiruthangal Road,
Sivakasi Taluk, Virudhunagar District.

8.The Joint-I Sub Registrar,
Palayamkottai Registration District,
Palayamkottai,
Kokkirakulam,
Tirunelveli - 9.

9.The Sub Registrar,
Srivaikuntam Registrar Office,
Srivaikuntam,
Tuticorin District.

10.The District Registrar Office,
Palayamkottai,
Registration District,
Palayamkottai Kokkirakulam,
Tirunelveli-9.



11.The Inspector General of Registration,
Inspector General of Registration Office,
Chennai.

12.State of Tamil Nadu,
represented its Tuticorin District Collector,
District Collector Office,
Tuticorin.

... Respondents/ Defendants

PRAYER:- Civil Revision Petition filed the under Article 227 of the Constitution of India, to set aside the order dated 03.12.2018 made in unnumbered plaint dated 22.11.2018 in last Sr.No.3972 of 2018 on the file of the District Munsif, Srivaikundam and consequently direct the learned District Munsif, Srivaikundam to number the plaint.

For Petitioners : Mr.T.Antony Arul Raj

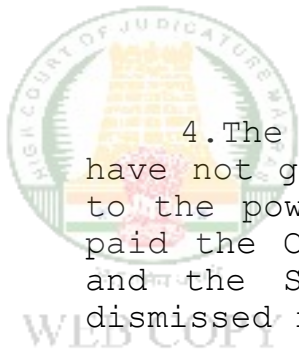
For Respondents : Mr.M.Murugan, Government Advocate
R8,R9,R10 & R11

ORDER

This Civil Revision Petition has been filed to set aside the order dated 03.12.2018 made in unnumbered plaint dated 22.11.2018 in last Sr.No.3972 of 2018 on the file of the District Munsif, Srivaikundam and consequently direct the learned District Munsif, Srivaikundam to number the plaint.

2.The petitioners contended that the rejection of the plaint on the ground of Court fee is not proper. Further, the petitioner has properly paid the Court fee by computing the Court fee under Section 25 (d) of Tamil Nadu Cort Fees and the Suit Valuation Act, 1955 and that the trial Court erred in holding that the petitioner/plaintiff ought to have paid Court fee under Section 40 of Tamil Nadu Court Fees and the Suit Valuation Act, 1955 and failed to consider that the petitioner is not a party to the documents, which are sought to be declared as null and void. Therefore, when the petitioner is not a party to the documents, the Court fee is payable under Section 25 (d) and not under Section 40 of the Tamil Nadu Court Fees and the Suit Valuation Act, 1955.

3.On the said basis, without considering the fact that whether the plaint has to be accepted under Section 25 (d) and not under Section 40 of the Tamil Nadu Court Fees and the Suit Valuation Act, 1955, the trial Court has passed an order by stating that the case of the plaintiffs is related on the fraudulent execution of the sale deeds and that could be looked into only when the plaintiffs paid the appropriate Court fee under Section 40 of the Tamil Nadu Court Fees and the Suit Valuation Act, 1955.



4.The trial Court contended that the plaintiffs/petitioners have not given any prior notice regarding the exclusive power given to the power agent and in this case, the plaintiffs ought to have paid the Court fee as per Section 40 of the Tamil Nadu Court Fees and the Suit Valuation Act, 1955 and the above said suit was dismissed for improper violation of plaint.

5.Now, the grievance of the petitioners is that there were three power of attorney deeds in favour of the fifth defendant/fifth respondent herein and the same is extracted hereunder:

Date	Document Nos.	Parties
10.01.2008	17/2008	executed by Amara Sundari Ebanazar in favour of fifth defendant.
10.01.2008	18/2008	first plaintiff and defendants 1 and 3 executed in favour of fifth defendant.
10.01.2008	19/2008	plaintiffs and defendants 2 and 4 executed in favour of fifth defendant.

6.Thereafter, the power of attorneys given in favour of the fifth defendant were cancelled and the details are as follows:

Date	Document Nos.	Parties
29.02.2008	98/2008	the plaintiffs cancelled the power deed in Document No.19/2008.
24.07.2008	236/2008	first plaintiff and second defendant cancelled the power deed in Document No.18/2008
24.07.2008	237/2008	second defendant and fourth defendant cancelled the power of attorney deed in Document No.19/2008.



7. Further, the petitioner contended that on 20.08.2016, the plaintiffs came to know that the fifth defendant executed two sale deeds in favour of sixth defendant on 25.08.2008 and the sixth defendant executed another sale deed in favour of seventh defendant on 24.03.2009.

8. It is the argument advanced by the learned counsel for the petitioners that on the date of execution of sale deeds, the power of attorneys were cancelled and hence, the grievance of the petitioners herein is that they are bound to pay the Court fee only with regard to the sale deed dated 24.03.2009 alone. Hence, all the three documents are not the valid documents since there was no power of attorney in respect of the fifth defendant. Further, it is contended that because of the cancellation of power of attorneys, the plaintiffs who are not parties in the said sale deeds, need not pay the Court fee under Section 40 of the Tamil Nadu Court Fees and the Suit Valuation Act, 1955.

9. The other grievance raised by the petitioners is that the trial Court has not given the opportunity for making such payment on such deficit Court fee and they have totally deprived the opportunity to pay the deficit Court fee and all of a sudden their plaint was rejected.

10. On perusal of the records and on hearing the petitioners, it is observed that the plaint was presented on 28.09.2018 and the same was also rejected by order dated 03.12.2018. Earlier, the petitioners were enquired by this Court for what happened to the plaint in between the period i.e., from 28.09.2018 to 03.12.2018 and when the petitioners were asked about the rejection of the plaint on 03.12.2018, the petitioners were unable to give details. Hence, it is for the petitioners to approach the trial Court whether they were given any opportunity and sufficient reason in numbering the suit and those facts are not placed before this Court.

11. In view of the above considering the facts and circumstances of the case, there is no merit in this Civil Revision Petition and the same is dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

District Munsif, Srivaikundam.

+1CC TO Mr.T.Antony Arul Raj, Advocate, Sr No.50907

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