



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

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C.R.P. (MD) No.1696 of 2019

and

C.M.P. (MD) No.8739 of 2019

Kalavathi (Died)

- 1.Arul Kumaran
- 2.Arumugam
- 3.Murugesan

Chellamuthu (Died)

- 4.Selvarani
- 5.Eswara Moorthy
- 6.Kanagaraj
- 7.Kavitha

... Petitioners / Petitioners /
Defendants 2 to 4 and 9 to 12
Vs.

- 1.Ravichandran
- 2.Jegan

... Respondents / respondents 1 and 2 /
Plaintiffs

- 3.The Tahsildar,
Taluk Office,
Palani,
Dindigul District.

- 4.The Village Administrative Officer,
VAO Office,
Tattankulam Village,
Palani,
Dindigul District.

- 5.The Joint Sub Registrar No.1,
District Registrar Office,
Palani,
Dindigul District.

... Respondents / respondents 3 to 5 /
Defendants 6 to 8

Prayer: The petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 26.03.2019 in I.A.No.36 of 2019 in I.A.No.962 of 2016 in O.S.No.265 of 2014 on the file of the District Munsif Court, Palani.



For Petitioners : Mr.S.Mahalingam

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 26.03.2019 in I.A.No.36 of 2019 in I.A.No.962 of 2016 in O.S.No.265 of 2014 on the file of the District Munsif Court, Palani.

2.The application in I.A.No.36 of 2019 has been filed to pay proper Court fee in terms of Section 12(2) of the Tamil Nadu Court Fees Act.

3.On the other hand, the Court below dismissed the said application stating that the plaintiffs / respondents have paid Court based on the assessment of tax in view of the provisions of Section 7 of the Tamil Nadu Court Fees Act.

4.However, when the matter is taken up for hearing, the learned counsel appearing for the petitioners would contend that in the event of dismissal of the Civil Revision Petition, the petitioner may be granted liberty to raise this issue at the time of passing final hearing in the suit.

5.Heard the learned counsel appearing for the revision petitioner.

6.The Court below has rightly dismissed the said I.A. observing that the Court fee paid by the respondents / plaintiffs in terms of Section 7 is in proper. Further, the Court below rejected the contention of the revision petitioners that the payment of court fee should be in terms of Section 12(2) of the Tamil Nadu Court Fees Act.

7.The learned counsel appearing for the petitioners would submit that the Court fees has been paid based on land tax receipt ie., 30 times of the tax. However, according to the petitioners, the property is not an agricultural property. Whether the land is agricultural property or not would be decided only after conducting trial by adducing evidence.

8.Therefore, this Court is of the view that the Court below shall decide the issue with regard to the nature of property ie., the property is an agricultural land or not after adducing evidence and hearing the parties and after deciding the said issue, the Court can direct the plaintiffs to pay the deficit court fee.

9.In view of the above, this Court is not inclined to interfere with the order dated 26.03.2019 in I.A.No.36 of 2019 in



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I.A.No.962 of 2016 in O.S.No.265 of 2014 passed by the District Munsif Court, Palani. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected C.M.P.is closed.

Sd/-

Assistant Registrar (CS-III)

/TRUE COPY/

Sub Assistant Registrar

To

The District Munsif, Palani.

+1 CC to M/s.B.RAJESH SARAIVANAN, Advocate (SR-89640[F] dated 26/09/2019)

+1 CC to M/s.GP (SR-89800[F] dated 26/09/2019)

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JM/25.10.2019/3P/4C