

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.12.2020

PRONOUNCED ON : 16.12.2020

CORAM:

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

CRP(PD).No.3760 of 2015

and

M.P.No.1 of 2015

R.Natarajan

... Petitioner

Vs.

- 1.Pasupathi
2. Suganthi
3. Sivakumar
4. Sabesan
5. Prabhakar
6. Latha
7. S.Nagarajan

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order in IA.No.340 of 2013 in OS.No.200 of 2012 on the file of the Additional District Munsif, Chidambaram dated 07.07.2015, dismissing the petition under Order 14 Rule 2.

For Petitioner : Mr.V.Lakshmi Narayanan

For Respondents : Mr. N.Sankara Vadivel
for R1 to R4
No Appearance for R7

ORDER

This Civil Revision Petition has been filed by the petitioner/first defendant against the dismissal of his application in IA.No.340 of 2013 in OS.No.200 of 2012 on the file of the Additional District Munsif, Chidambaram dated 07.07.2015.

2. The petitioner herein had filed an application in IA.No.340 of 2013 in OS.No.200 of 2012 on the file of the Additional District Munsif, Chidambaram under Order 14 Rule 2 and Section 151 of CPC to try the value of the suit which will decide the pecuniary jurisdiction of the court as preliminary issue. The learned District Munsif by the order dated 07.07.2015 had dismissed the said application. Feeling aggrieved, the petitioner/first defendant has filed the present Civil Revision Petition.

3. Heard Mr.V. Lakshmi Narayanan, the learned counsel for the petitioner/first defendant. Mr. N.Sankara Vadivel, the learned counsel for the respondents 1 to 6/plaintiffs.

4. The learned counsel for the petitioner has submitted that the respondents 1 to 6 herein had filed a suit in OS.No.200 of 2012 on the file of the District Munsif, Chidambaram to declare their title over the suit property and for consequential relief of injunction restraining the defendants 1 to 3 therein from interfering with the peaceful possession and enjoyment of suit properties and other reliefs. He further submitted that the respondents 1 to 6 valued, the relief for declaration under Section 25(b) of the Tamil Nadu Court Fees Act and Valuation Act (herein after referred to as TNCF Act) on kist value and paid Rs.75.50 as court fees. He further submitted that even as per the plaint allegations that the suit land is lying fallow for the past 20 years and the petitioner herein/first defendant has made lay out called Rathna Sabapathipuram, for which, the third defendant also gave approval dated 09.05.2010 and under the said circumstances, the respondents 1 to 6 should not valued the suit for the relief of declaration of their title by treating the suit property as agricultural land. He further submitted that since the suit land has been converted into house sites and lay out also has been approved by the proper authority, the relief for declaration of title should have been valued by referring to the market value. He further submitted that

as per the sale deed dated 17.11.2011, the suit property was valued at Rs.95/- per sq.ft and as per the said sale deed, the property was sold for Rs.2,62,000/- . He further submitted that since the suit property has been classified as a house sites, it would fetch for a price of Rs.50,00,000/- and therefore, the District Munsif will not have pecuniary jurisdiction to try the suit. He further submitted that if the suit is properly valued, the District Munsif would not have jurisdiction to try the suit and hence, the petitioner herein had filed an application requesting the learned District Munsif to try the issue with regard to the court fees and pecuniary jurisdiction of the court as preliminary issue, but the learned Additional District Munsif, had dismissed the said application by stating that the said issue can be decided along with other issues. He further submitted that if the jurisdiction is decided as preliminary issue, that would save the courts' time and direct the parties to approach the proper court which is having jurisdiction and thereafter, the competent court can conduct the trial in respect of other issues, but without considering the same, the trial court had dismissed the application which has been filed by the petitioners to try the pecuniary jurisdiction of the court as preliminary issue. Hence, he prayed to allow the Civil Revision Petition and set aside

the order passed by the learned District Munsif, Chidambaram in IA.No.340 of 2013 in OS.No.200 of 2012 and allowed the said application and direct the learned District Munsif to try the jurisdictional issue as preliminary issue.

5. Per contra, the learned counsel for the respondents 1 to 6/plaintiffs has submitted that the suit properties originally belonged to one Ponnambala Mudaliar; that after his death his sons namely Duraisamy Mudaliar and Selva Ganapathy Mudaliar inherited the suit properties and subsequently, the said Duraisamy Mudaliar died intestate and his brother Selva Ganapathy Mudaliar became absolute owner of the entire properties. He further submitted that the said Selva Ganapathy Mudaliar had adopted one Krishnamoorthi who is the husband of the first plaintiff and father of the plaintiffs 2 to 6 as his son under a registered adoption deed dated 10.09.1947 and after the death of the said Krishnamoorthi, the plaintiffs (the respondents 1 to 6 herein) became the absolute owners of the suit properties and they have been in possession and enjoyment of the same and he further submitted that the petitioner herein who is a close relative of the respondents 1 to 6 had

created false documents claiming that the suit properties are his ancestral properties and obtained approval for the lay out from the third defendant and sold “B” schedule property to the second defendant under a registered sale deed dated 17.11.2011 and after came to know about the said transactions, the respondents 1 to 6/plaintiffs had filed a suit to decalre their title over the suit properties and other reliefs. He further submitted that merely because the petitioner herein without having any right over the suit properties had prepared a lay out and obtained approval from the third defendant it cannot be said that the agricultural land has been converted into house sites in accordance with law. He further submitted that since the plaintiffs claiming that they are the lawful owners of the suit properties and they are disputing the propriety of the petitioner herein, in converting the agricultural lands into house sites, they need not value the suit by treating the suit properties as house sites. He further submitted that since the plaintiffs are questioning the very propriety of the petitioner dealing with the suit properties, the main issue involved in the suit is whether the plaintiffs are having title over the suit property and whether the petitioner is having any right to convert the suit properties into house sites and the said issue can be decided

only after taking oral and documentary evidence and hence, the trial court had rightly dismissed the application filed by the petitioner to try the pecuniary jurisdiction as preliminary issue by holding that the said issue can be decided along with the other issues. He further submitted that in the said order, this court need not interfere and therefore, he prayed to dismiss the petition.

6. A perusal of the typed set of papers filed by the petitioners shows that the respondents 1 to 6 herein had filed a suit in OS.No.200 of 2012 on the file of the Additional District Munsif, Chidambaram to declare their title over the suit property and for consequential relief of permanent injunction restraining the defendants 1 to 3 therein from interfering with their possession and enjoyment of the suit property; to declare the sale deed executed by the first defendant in favour of the second defendant dated 17.11.2011 in respect of “B” schedule property is void and for consequential relief of injunction restraining the defendants 1 to 3 therein from dealing the suit properties and for mandatory injunction directing the fourth defendant to cancel the sanction granted by the Panchayat in respect of suit properties and for

permanent injunction restraining the 5th defendant' from registering any document in respect of suit properties.

7. According to the plaintiffs, the suit properties originally belonged to one Ponnambala Mudaliar and he got two sons namely Duraisami Mudaliar and Selva Ganapathy Mudaliar and after his death his sons inherited the suit properties as legal heirs and they were in joint possession of the same and his brother namely Selva Ganapathy and subsequently they partitioned their property under a registered partition deed dated 21.12.1933 and in the said partition the suit properties were allotted to the share of Selvaganapathy Mudaliar. Their further case is that the said Selva Ganapathy Mudaliar had no issues and he adopted one Krishnamoorthi (the husband of the first plaintiff and father of the plaintiffs 2 to 6) as his son on 10.09.1947 under a registered adoption deed dated 10.09.1947. Their further case is that after the death of the said Krishnamoorthi Mudaliar they became absolute owners of the suit properties. Their further case is that the petitioner herein taking advantage of the fact that he is a close relative of the said Krishnamoorthi and he was helping him in cultivation and management

of the lands, he created false documents as if the suit properties are his ancestral properties and obtained approval for the layout from the fourth defendant and sold “B” schedule properties to the second defendant under a registered sale deed dated 17.11.2011.

8. The case of the petitioner is that the suit properties are his ancestral properties in which, the respondents 1 to 6 have no right and hence, they cannot question the lay out prepared by him and approval obtained by him from the fourth defendant. His further case is that since the suit properties were converted into house sites long back and lost the character of agricultural land, the plaintiffs should have valued the relief of declaration of title for the market value.

9. The trial court after considering the rival submissions came to the conclusion that the issue with regard to pecuniary jurisdiction can be decided only after taking evidence in respect of other facts also and hence, it had dismissed the said application. Since, both the parties are in controversy over the very nature of the suit land i.e., whether it is an agricultural land or it is a house site, this Court is of the view that the

trial court had rightly took the decision that the issue with regard to pecuniary jurisdiction and court fees can be decided only after taking evidence in respect of all the material facts. This Court does not find any infirmity in the said order and hence, this Civil Revision petition is liable to be dismissed.

10. In the result, the Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

16.12.2020

Vv
Index : Yes/No
Internet : Yes/No

To

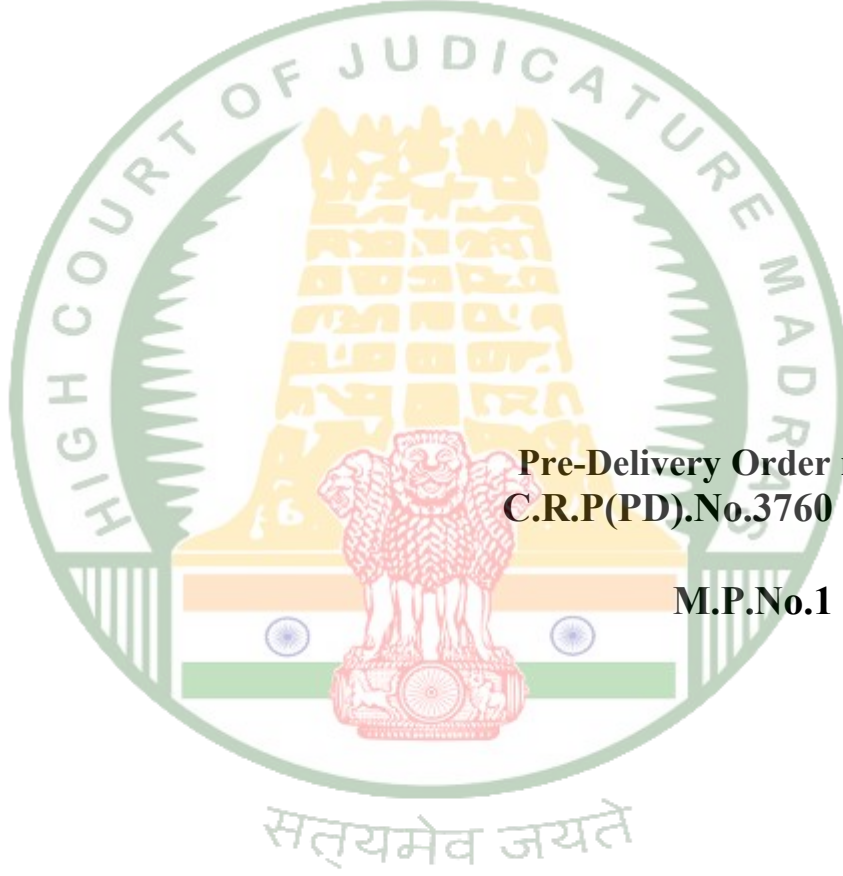
The Additional District Munsif,
Chidambaram

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CRP (PD).No.3760 of 2015 and
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P.RAJAMANICKAM.J.,

Vv



Pre-Delivery Order made in
C.R.P(PD).No.3760 of 2015
and
M.P.No.1 of 2015

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