

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2020

CORAM

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRP.No. 877 of 2013
and M.P.No.1 of 2013

J.Ramadurai

..Petitioner

Vs

R.Raju

..Respondent

Prayer : Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the order and decree passed in I.A.No.1494 of 2011 in O.S.No.167 of 2011 dated 10.01.2013 on the file of the Principal District Munsif, Poonamallee.

For Petitioner : M/s.S.Krishnasamy

For Respondent :

ORDER

The Civil Revision Petition is filed against the order and decree passed in I.A.No.1494 of 2011 in O.S.No.167 of 2011 dated 10.01.2013 on the file of the Principal District Munsif, Poonamallee.

2. Petitioner herein had filed a suit in O.S.No. 157 of 2011 for declaration of sale deed dated 13.03.2003 as not valid and binding on the plaintiff and to deliver vacant possession of the suit property after removal and demolishing the superstructure put up by the defendant/respondent herein. Subsequently, the petitioner has filed an application in I.A.No. 1494 of 2012 under Order 6 Rule 17 CPC to amend the plaint and valuation slip. The said application was dismissed by the trial Court. Challenging the same, the present Civil Revision Petition is filed.

3. The learned counsel for the petitioner submitted that in the valuation slip enclosed along with the plaint, court fee has

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been paid under Sec.25 (d) without mentioning Sec.30 along with Sec.25(d). It is an omission which is involuntary and due to inadvertence. The learned counsel further submitted that the court below erred in holding that the suit property is a building site by believing the averments made in the written statement filed by the defendant. It is further contended by the learned counsel for the petitioner that the trial Court without taking into consideration the sale deed, patta and adangal of the suit property, had dismissed the application filed by the petitioner. Therefore, the said order of the trial Court needs interference.

4. Heard the learned counsel for the petitioner and perused the documents available on record. Though sufficient opportunities were given, the petitioner has not taken any steps to serve on the respondents.

5. Admittedly, the suit was filed by the petitioner herein against the respondent for declaration of sale deed dated 13.03.2003 as not valid and binding on the petitioner herein/plaintiff and to deliver the vacant possession of the suit property after removal and demolishing the superstructure put up by the defendant/respondent herein. Subsequently, the plaintiff/petitioner herein had filed an application to amend the valuation slip to pay the court fee on one half of the market value by classifying the land as ryotwari land and pay the court fee on 30 times the survey assessment land.

6. On a careful perusal of the documents and the judgment and decree passed by the trial Court, it reveals that there are structures in the schedule property as contended by the defendant. Though the plaintiff/petitioner herein admitted the same before the trial Court, claims to consider the said land as agricultural land for determining the market value for ryotwari land to pay the court fees. Further, the plaintiff/petitioner herein had filed only Adangal and had not filed any Kist receipt for the scheduled property. Unless the Kist receipt is produced and it is established that the suit property is agricultural land, the plaintiff/petitioner herein cannot claim to value the property. Therefore, the plaintiff/petitioner herein has to value the suit on the basis of market value of the property on the date of filing the suit.

7. The trial Court has considered all these aspects and rightly dismissed the application filed by the plaintiff/petitioner herein. This Court does not find any reason to interfere with the judgment and decree passed by the trial Court and is of the opinion that the Civil Revision Petition is

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liable to be dismissed.

8. In the result, the Civil Revision Petition is dismissed.
No Costs.

9. Considering the age of the suit, which is pending from the year 2011, the trial Court namely the Principal District Munsif Court, Poonamalee is directed to dispose of the suit on merits in accordance with law, within a period of three (3) months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

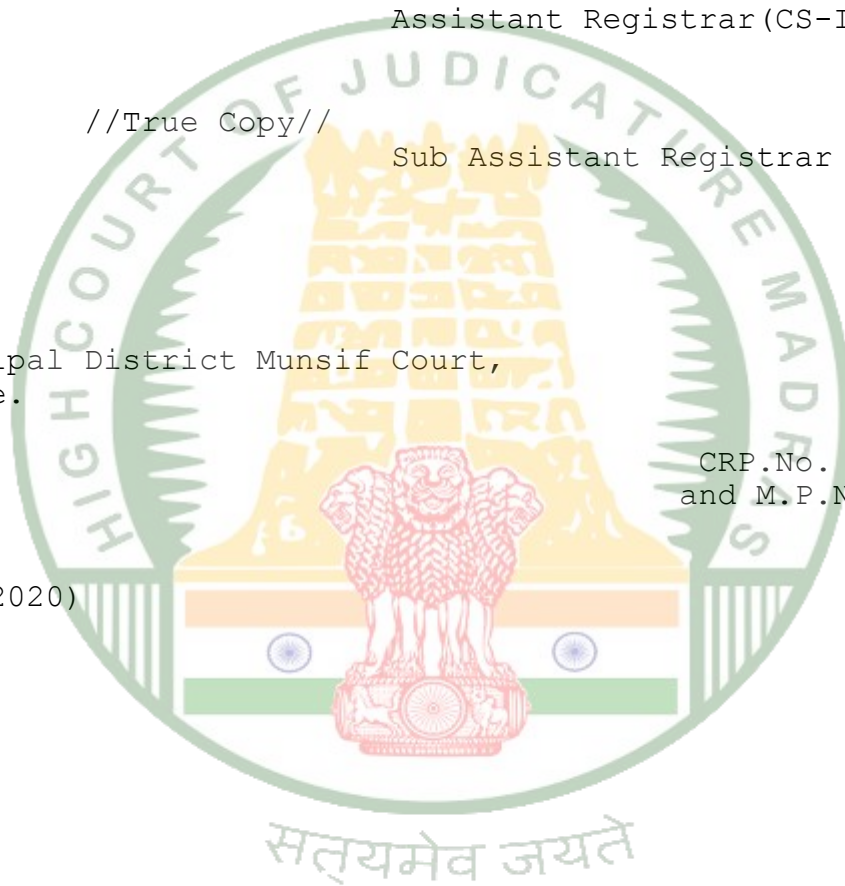
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To

The Principal District Munsif Court,
Poonamalee.

CRP.No. 877 of 2013
and M.P.No.1 of 2013

RSV (CO)
CB (15/10/2020)



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