

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD)No. 542 of 2018

and

C.M.P.No. 2890 of 2018

1.R.Gangadharan
2.Selvi Sakthivel

...Petitioners

Vs.

G.Murugan

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order in I.A.No. 9426 of 2017 in O.S.No. 1991 of 2017 dated 30.10.2017 on the file of the XVIII – Assistant City Civil Court, Chennai.

For Petitioners : Mr.R.Sivaraman

For Respondent : Mr.S.Subbiah

ORDER

The plaintiffs in O.S.No. 1991 of 2017 have come up with this revision, challenging an order of the Trial Court directing the issue relating

to valuation of Court fee to be decided as a preliminary issue.

2. The suit was filed for a declaration that the settlement deed dated 06.12.2013 executed by the second plaintiff in favour of the defendant is null and void and for consequential permanent injunction.

3. The plaintiffs valued the suit under Section 27(d) of the Court fees Act and paid a Court fee of Rs.351/-. The defendants, upon entering appearance, raised the issue relating to valuation and contended that the suit has to be valued under Section 40 of the Tamilnadu Court Fees and Suits Valuation Act and appropriate Court fee should be paid. They also required to the Court to decide the issue relating to valuation as a preliminary issue. An application was filed in I.A.No. 9426 of 2017 seeking a decision on the issue of Court fees ahead of other issues. The Trial Court concluded that the issue relating to valuation must be decided as a preliminary issue in view of the clear language of Section 12(2) of the Tamilnadu Court fees and Suits Valuation Act. It is against the said order, the plaintiffs have come up with this revision.

4. I have heard Mr.R.Sivarman, learned counsel for the petitioners.

5. Mr.R.Sivaraman would vehemently contend that the Trial Court fell in error in directing the issue regarding valuation to be decided as preliminary issue. According to him, since the plaintiffs have alleged fraud and undue influence, they are entitled to seek declaration that the document is null and void by valuing the relief under Section 27(d) and they need not seek cancellation of the instrument by paying Court fee under Section 40 of the Tamilnadu Court fees and Suits Valuation Act. He would also fault the Trial Court for deciding to take up the issue as a preliminary issue.

6. I am unable to agree with the contentions of the learned counsel because the Trial Court had not decided the issue one way or the other. It has only said that the issue relating to the valuation will be taken up and dealt with as a preliminary issue. The decision of the Trial court is completely in consonance with Section 12(2) of the Tamilnadu Court fees

and Suits Valuation Act. I do not think I can interfere at this stage particularly in a revision filed under Article 227 of Constitution of India to prevent Court from deciding the issue relating to valuation as a preliminary issue. If I do so, the order will run counter to the provisions of Section 12(2) of the Tamilnadu Court fees and Suits Valuation Act. I therefore, see no reason to interfere with the order of the Trial Court, the order of the Trial Court is therefore affirmed. This civil revision petition fails and it is accordingly dismissed. Consequently, connected miscellaneous petition is closed.

7. Considering the age of the parties, the Trial Court will do well to decide the issue at earliest within a period of three months from the date of resumption of normal physical hearings at the Courts in Chennai.

28.10.2020

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To:
The XVIII – Assistant City Civil Court,

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Chennai.

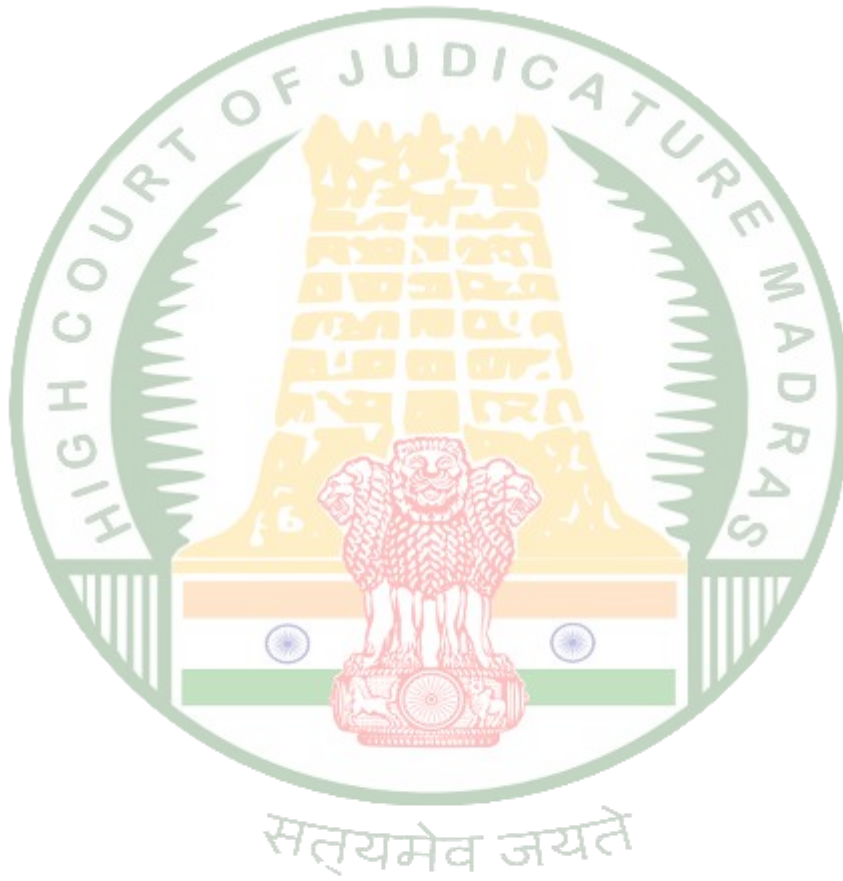
R.SUBRAMANIAN, J.
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