



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P(MD)No.166 of 2020

and

C.M.P. (MD)No.969 of 2020

Sri Devi Kamatchi ...Petitioner / Petitioner / 3rd Defendant

-Vs-

Vadivambal ...Respondent / Respondent / Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying to direct the I Additional District Judge, Madurai to number the petition filed by the petitioner under Section 12 of the Tamil Nadu Court Fees and Suit Valuation Act in unnumbered I.A.No. Of 2019 in O.S.No.181 of 2017 in Rep. No.21851 of 2019 dated 19.12.2019 and to decide the matter in accordance with law, within the time stipulated by this Court.

For Petitioner : Mr.Babu Rajendran

ORDER

This Civil Revision Petition is filed against the order of the 1st Additional District Judge, Madurai, returning the application filed under Section 12(5) of the Tamil Nadu Court Fees and Suit Valuation Act, 1955 (hereinafter referred to as 'the Act') r/w Section 151 of C.P.C., to decide the issue of the valuation of the suit property.

2.The suit has been originally filed for declaration that the plaintiff is the absolute owner of the suit property and also for declaration that various sale deeds executed by the defendants 1 to 12 are null and void, whereas the Court fee has been valued only 50% of the total value shown in the plaint, namely, Rs.15,00,000/-. Originally, the suit has been filed before the Subordinate Court, Madurai. The Subordinate Court has returned the application on the ground that since the value of the property shown as Rs.15,00,000/-, half of the Court fee has been paid. Though the plaintiff himself has undertaken to pay the remaining Court fee, the Subordinate Court has returned the plaint vide its order dated 21.03.2011. Against which, a Civil Revision Petition is filed in C.R.P.(PD)No.1704 of 2011 and on 30.02.2017 the above



petition is withdrawn. In the meanwhile, the suit has been presented before the 1st Additional District Court, Madurai, by paying Court fee only under Section 25(1) of the Act and whereas, with regard to the declaration relief, Court fee has not been paid under Section 40 of the Act. At this stage, an application has been filed by the defendant to decide the issue of Court fee. The same issue also raised in the written statement and has filed an application under Section 12(5) of the Act. The learned 1st Additional District Judge, has returned the application on the ground that how this petition is maintainable. Against which, the present Civil Revision Petition is filed.

3.Heard the learned counsel appearing for the revision petitioner and perused the entire materials available on record.

4.The facts clearly indicate that the suit filed to avoid the document executed by the power agent of the plaintiff. Such being the position, the value of the suit to be arrived as per the market value set out in the documents. The issue whether the Court fee is liable to be paid by the plaintiff or not, is to be decided by the learned 1st Additional District Judge, Madurai on merits. Accordingly, the learned 1st Additional District Judge, Madurai, has to number the application filed for Court fee valuation and decide whether the plaintiff is liable to pay Court fee or not on merits. Accordingly, there is a direction to the learned 1st Additional District Judge, Madurai to number the application filed under Section 12(5) of the Act and decide the application on merits, after giving opportunity to other sides.

5.The Registry is directed to return the original petition to the revision petitioner, after obtaining xerox copy of the same, enabling him to present the same before the 1st Additional District Court, Madurai. The revision petitioner shall represent the petition before the 1st Additional District Court, Madurai, within a week from the date of receipt of a copy of this order. Thereafter, the learned 1st Additional District Judge, Madurai shall number the application and decide the same on merits.

6.In the result, this Civil Revision Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

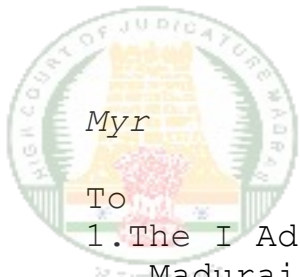
Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



Myr

To

1.The I Additional District Judge,
Madurai.

WEB COPY
COPY TO

2.The Section Officer,
V.R. Records,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1 CC to M/s.BABU RAJENDRAN, Advocate (SR-4123[F] dated
31/01/2020)

C.R.P(MD)No.166 of 2020
31.01.2020

SCR(CO)

TR(03.02.2020)3P 5C