



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2021

CORAM

THE HON'BLE MR.JUSTICE S.S.SUNDAR

C.R.P.NO.1194 OF 2019

AND

C.M.P.NO.7647 OF 2019

1. C.P.Dharmalingam
2. Sampooram
3. D.Vignesh Prabhu

... Petitioners

Vs.

1. G.Padmapriya
2. G.Premkumar

... Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 21.08.2018 passed by the Learned III Additional District Munsif, Coimbatore in I.A.No.1677 of 2017 in O.S.No.1140 of 2017 in respect of directing the respondents to value the plaint for a sum of Rs.8 lakhs as per the sale deed dated 26.05.2005 in Document No.1471 of 2005.

For Petitioners : Mr.L.Mouli

For Respondents : Mr.A.Kalaivanan

ORDER

This Civil Revision Petition is directed against the order passed by the Learned District Munsif in I.A.No.1677 of 2017 in O.S.No.1140 of 2017.

2. The revision petitioners herein are the defendants in the suit in O.S.No.1140 of 2017 on the file of the III Additional District Munsif Court, Coimbatore. The suit was filed by the respondents in this Civil Revision Petition for declaration that the sale deed dated 26.05.2005 said to have been executed in favour of the 1st defendant as null and void and for permanent injunction restraining the defendants from in any manner interfering with the plaintiffs' peaceful possession and



enjoyment of the suit property.

3. During the pendency of the suit, the revision petitioners filed an application in I.A.No.1677 of 2017 under Section 12 of the Court Fees Act, seeking a direction to the respondents / plaintiffs to pay the Court Fee of Rs.1,15,600/- and to reject the plaint, in case the respondents fail to pay the Court Fee. In support of the petition, the revision petitioners stated that the plaintiffs who are parties to the sale deed as represented by their mother are not in possession of the property and that the suit ought to have been valued under Section 25(a) of the Tamil Nadu Court Fees and Suits Valuation Act or under Section 40 of the Act for seeking cancellation of document namely the sale deed by Doc.No.1471 of 2005.

4. In short, the revision petitioners stated that the market value of the suit property is around Rs.20 lakhs and that the total value of the property goes around Rs.57.8 lakhs. Since the plaintiffs claimed 2/3rd share in the suit property, the plaintiffs are liable to pay Court fee for a sum of Rs.38.53 lakhs.

5. The Trial Court dismissed the application after holding that the plaintiffs are not liable to pay Court fee on the market value of the property, but the value which was actually mentioned in the document for the transaction. Aggrieved by the same, the defendants have preferred this Civil Revision Petition before this Court.

6. Since the submission of the learned counsel for the petitioners revolves around the interpretation of Section 40 of Tamil Nadu Court Fees and Suits Valuation Act, it is useful to refer Section 40 of the Tamil Nadu Court Fees and Suits Valuation Act, which reads as follows :

"40. Suits for cancellation of decrees, etc. (1) In a suit for cancellation of a decree for money or other property having a money value, or other document which purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest in money, movable or immovable property, fee shall be computed on the value of the subject-matter of the suit, and such value shall be deemed to be-- if the whole decree or other document is sought to be cancelled, the amount or value of the property for which the decree was passed or other document was executed; if a part of the decree or other document is sought to be cancelled, such part of the amount or value of the property. (2) If the decree or other document is such that the liability under it



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cannot be split up and the relief claimed relates only to a particular item of property belonging to the plaintiff or to the plaintiff's share in any such property, fee shall be computed on the value of such property or share or on the amount of the decree, whichever is less."

Explanation - A suit to set aside an award shall be deemed to be a suit to set aside a decree within the meaning of this section.

7. Section 40 of the Act deals with Court fee payable in a case where the suit is for cancellation of a document or a decree of Court. The value of the property for which the decree was passed or the document was executed should be considered for the purpose of paying Court fee. Therefore, when the provision itself is very clear and unambiguous that the Court fee should be based on the value of the property for which the deed of conveyance was executed, the interpretation of the learned counsel for the petitioner that the plaintiffs should pay Court fee for the market value of the property cannot be accepted. Since the petitioners' contention is contrary to the language of Section 40 of the Act, this Court is unable to agree with the same.

8. Accordingly, this Civil Revision Petition is dismissed confirming the order of the Lower Court in I.A.No.1677 of 2017. No costs. Consequently, connected miscellaneous petition is closed.

9. The learned counsel appearing for the respondents has a grievance that the petitioners have filed a petition under Section 12 of the Court Fees Act only to drag on the proceedings. He also requests this Court to direct the Trial Court to expedite the trial.

10. Accordingly, the Learned III Additional District Munsif, Coimbatore is directed to expedite the trial in O.S.No.1140 of 2017 and dispose of the suit within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

raja

Sub Assistant Registrar



To

The III Additional District Munsif, Coimbatore.

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+1cc to Mr.L.Mouli, Advocate., S.R.No.63345

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and
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JPL (CO)
PM/04/01/2022