

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD) No.2920 of 2018

A.Srinivasan

.... Petitioner

Vs

1.A.Palanisamy Gounder
2.K.Gandhimathi
3.S.A.Rajendran
4.S.Amirthavalli
5.A.Prabaharan
6.A.Balraj
7.A.Jaganathan
8.A.Nagamanickam

.... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal order in IA.No.222 of 2016 in OS.No.1486 of 2015 on the file of the I Additional Subordinate Judge's Court, Coimbatore and allow the civil revision petition.

For Petitioner : Mr.C.R.Prasanan

For Respondents : No appearance

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 23.09.2016 in IA.No.222 of 2016 in OS.No.1486 of 2015 on the

file of the I Additional Subordinate Judge's Court, Coimbatore, thereby allowed the petition for direction and directed to pay court fees under Section 25(b) instead of Section 25(d) of Tamilnadu Court Fees and Suits Valuation Act.

2. Though notice was served, no one appeared on behalf of the respondents before this court in person or through pleader.

3. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed suit for declaration and permanent injunction in respect of the suit property. According to the petitioner, the suit properties are agricultural land and classified as 'tharisu' and as such the value of the suit property is Rs.1,03,000/- and paid a sum of Rs.7,726.50/- as court fees under Section 25(b) and 27(c) of Tamil Nadu Court Fees and Suits Valuation Act. While pending suit, the respondents herein filed petition for direction directing the petitioner to pay court fees under Section 25(b) instead of 25(d) of Tamil Nadu Court Fees and Suits Valuation Act on the ground that the suit property is classified as residential area by

Government of Tamil Nadu and it does not come under agricultural land category. Even assuming that it is an agricultural land, the Government of Tamilnadu chose to have abandoned the collection of kist in respect of the agricultural land for the past ten years. Therefore, the court fees ought to have been paid only on the market value of the land. In support of the said contention, the respondents marked Ex.P1 to Ex.P7 with regard to guideline value of the suit properties and also Master Plan for Coimbatore Local Planning Area.

4. The learned counsel for the petitioner would submit that though classification of the land now classified as residential area and character of the property changed, under Section 7 (2) of Tamil Nadu Court Fees and Suits Valuation Act, the market value of the land in suit assessed 30 times the survey assessment on the land and where the land is house site whether assessed to full revenue or not, poromboke land or any other land not falling under clause 'a', under its market value, that under Section 25(a) where the prayer is for declaration and for possession of the property to which declaration relates fees shall be computed on the market value or on

Rs.300/- whichever is higher. However, the petitioner failed to produce any documents to substantiate the said contention before the court below. In view of the same, this Court is of the considered opinion that the trial court may consider afresh by let in evidence in this regard.

5. In view of the above, this civil revision petition is allowed and the order dated 23.09.2016 passed in IA.No.222 of 2016 in OS.No.1486 of 2015 on the file of the I Additional Subordinate Judge's Court, Coimbatore is set aside. The above application is remanded back for fresh consideration. The parties are at liberty to let in evidence and mark relevant documents. The trial court is directed to dispose of the IA within a period of three months from the date of receipt of copy of this order. No order as to costs.

सत्यमेव जयते

02.07.2021

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

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G.K.ILANTHIRAIYAN,J.

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To

The I Additional Subordinate Judge,
Coimbatore



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