

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (NPD) No.2158 of 2021

1.Kothandapani
2.Dayanidhi
3.S.Rajeswari

...

Petitioners /
Plaintiffs

versus

1.Annammal
2.M.Venkatesan

...

Respondents /
Defendants

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, to set aside the order dated 22.07.2021 in O.S.S.R.No.2836 of 2021 passed by the learned District Munsif, Poonamallee and to direct the learned District Munsif, Poonamallee to number the suit.

For Petitioners : Mr.M.V.Seshachari

ORDER

This Civil Revision Petition is filed, challenging the order dated 22.07.2021 passed by the learned District Munsif, Poonamallee in O.S.S.R.No.2836 of 2021.

2. The learned counsel for the petitioners submitted that, the petitioners filed the suit against the respondents, seeking the prayer of declaration that, the registered Sale Deed dated 17.09.2014, is null and void and not binding on the plaintiffs; for declaration that the registered deed of Power of Attorney dated 17.03.3021, is null and void and not binding on the plaintiffs; and for consequential permanent injunction. He further submitted that, the petitioners, are not parties to these documents. The petitioners are the absolute owners of the suit properties by inheritance. Because of these documents, certain encumbrance has been created in the suit properties, therefore, the suit was filed for the aforesaid reliefs.

3. The learned trial Judge has passed an order dated 22.07.2021 directing that, "the suit has to be valued under Sections 25(b) and 25(d) of the Tamil Nadu Court Fee and Suit Valuation Act and not under Sections 25(d) and 27(c) of the Tamil Nadu Court Fee and Suit Valuation Act. If the suit is valued under Section 25(b) of the Tamil Nadu Court Fee and Suit Valuation Act and the Court will not have the pecuniary jurisdiction". Thus, ordered return of plaint under Order 7 Rule 10 of C.P.C.

for valuing the suit under Section 25(b) and payment of Court Fee and for filing the plaint before the proper Court having pecuniary jurisdiction, within a period of one month. Challenging this order, this Civil Revision Petition is preferred.

4. The learned counsel for the petitioners submitted that, the petitioners, are not parties to these documents, therefore, it is not necessary for them to value the suit under Section 25(b) of the Tamil Nadu Court Fee and Suit Valuation Act and to pay the Court Fee therein. He has relied on the judgments of this Court in **SIDDHA CONSTRUCTION (P) LTD. vs. M.SHANMUGAM AND OTHERS** reported in 2006 L.W.176; and **G.SEETHADEVI vs. R.GOVINDARAJ AND OTHERS**, reported in 2002-1-L.W.925. It is made clear in these judgments that, when a party is not a party to the document, it is enough that the suit is valued under Section 25(d) of the Tamil Nadu Court Fee and Suit Valuation Act and Court Fee paid thereon. That apart, as per Section 7 of the Tamil Nadu Court Fee and Suit Valuation Act, *"the fee payable depends on the market value of any property, such value shall be determined as on the date of presentation of*

the plaint. The assessment made by the plaintiff shall be accepted by the Court at the initial stage of numbering the suit, subject to objection that may be raised by the other party to the litigation". Therefore, this Court finds that the order of the learned District Munsif, Poonamallee, in returning the plaint, is not in accordance with law and therefore, the learned District Munsif, Poonamallee, is directed to number the plaint, if it is otherwise in order. It is for the other side to raise the issue of Court Fee, if so advised, after entering appearance.

5. With this observation, this Civil Revision Petition is disposed of. However, there is no order as to costs.

05.10.2021

Speaking order / Non-speaking order

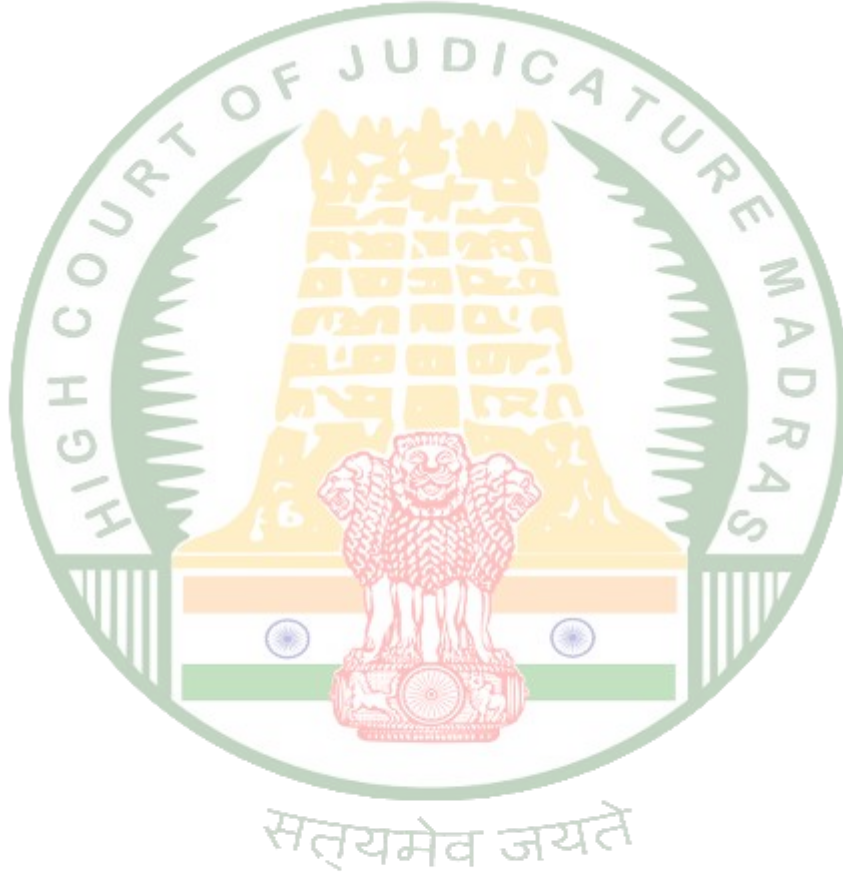
Index : Yes / No

Note : Registry is directed to return the original plaint to the learned counsel for the petitioners.

psa / sri

To

The District Munsif,
Poonamallee.



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G.CHANDRASEKHARAN, J.

psa / sri



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