

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2021

CORAM:

THE HONOURABLE Mr. JUSTICE A.D.JAGADISH CHANDIRA

Civil Revision Petition (PD) No.152 of 2017

1.Thiyagarajan
S/o.Muthusamy Nadar

2.Mohan
S/o.Ulaganathan

... Petitioners

Versus

Mohan Mukthar
represented by his
General Power Agent,
SG.Syed Ameer Basha

.. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 29.06.2015 passed in I.A.No.218 of 2014 in O.S.No.304 of 2013 on the file of learned District Munsif, Chengalpet.

For Petitioners : Mr.R.Subramanian

For Respondent : No appearance - Mr.N.Selvaraj

O R D E R

This matter is heard through Video Conferencing.

2. The present Civil Revision Petition has been filed challenging the order dated 29.06.2015 passed in I.A.No.218 of 2014 in O.S.No.304 of 2013 on the file of learned District Munsif, Chengalpet.

3. The brief facts of the case is as follows:

The revision petitioners are the defendants 3 and 4 in O.S.No.304 of 2013 on the file of learned District Munsif, Chengalpet, filed by the respondent/plaintiff seeking to declare (i) the sale deed in favour of the second defendant dated 28.10.1996 registered as document No.695/1998 on the file of Sub-Registrar, Thiruporur (ii) the sale deed in favour of the third defendant dated 06.04.2000 registered as document No.701/2000 and (iii) the sale deed in favour of the fourth defendant dated 01.03.2013 registered as document No.2728/2013 as null and void. The revision petitioners/defendants 3 and 4 have filed I.A.No.218 of 2014 in O.S.No.304 of 2013 stating that the relief of declaration sought for in the plaint were in respect of different sale deeds and that the prayer in respect of paragraph No.14(a) and (b) are time barred and the

relief sought for under paragraph No.14(c) was also undervalued by the respondent/plaintiff. Further, the revision petitioners/defendants 3 and 4 have also stated that the plaintiff is a third party purchaser and the valuation of the suit under section 27(c) of Tamil Nadu Court Fees and Suits Valuation Act is not correct. It was further averred that the respondent/plaintiff has to seek relief of declaration of title with regard to the suit property by paying the Court fees on the basis of the market value of the suit u/s.25(d) of the Tamil Nadu Court Fees and Suits Valuation Act and hence, the application was filed to reject the plaint. The respondent/plaintiff had filed a counter. The trial Court by order dated 29.06.2015 rejected the application. There against, the present revision has been filed.

4. Learned counsel for the petitioners submits that the petitioners are defendants 3 and 4 in the suit. The suit property was purchased by the second defendant in the suit by a sale deed dated 28.10.1996 registered as document No.695/1998 at the office of Sub Registrar, Thiruporur. Subsequently, the second defendant sold the property to the third defendant vide sale deed dated 06.04.2000 registered as document No.701/2000 and the property was again sold to the fourth defendant vide sale deed dated 01.03.2013 registered as

document No.2728/2013. The suit was filed by the respondent/plaintiff seeking to declare the above three documents as null and void. The suit was filed on 07.10.2013. On that date, the relief of declaration in respect of paragraph No.14(a) and (b) with regard to sale deeds dated 28.10.1996 and 06.04.2000 were barred by limitation. Further, on the date of filing of the suit, the Munsif Court had jurisdiction only to try suits to the pecuniary value of Rs.30,000/- only. As per document dated 28.10.1996, the value of the property was shown to be Rs.6,000/-. Subsequently, on 06.04.2000, the value of the property was shown to be Rs.1,30,000/- and subsequently, on 01.03.2013, the value of the property was shown to be Rs.31,39,200/- whereas in Paragraph No.13 of the plaint, a wrong value was shown so as to undervalue the suit. The suit was filed only to harass the defendants, who are innocent purchasers and who had purchased it for valid consideration. The trial Court had, without rendering a finding and without passing a detailed order with regard to the grounds raised by the petitioners/defendants 3 and 4, by a cryptic order, dismissed the application. Challenging the same, the present revision has been filed.

5. Learned counsel for the petitioners/defendants 3 and 4 submits that an order allowing or rejecting an application under Order 7 Rule 11 of the Code of

Civil Procedure is deemed to be a decree deciding the substantive right of parties and the Court has to pass a detailed order. In this case, the trial Judge had dismissed the petition by a cryptic order.

6. Heard the learned counsel for the petitioners and perused the materials on record.

7. When the matter was listed on 16.04.2021, the learned counsel for the petitioners was present and the learned counsel for the respondent was absent and hence, the case was adjourned to 21.04.2021. On 21.04.2021, the learned counsel for the petitioners was present and the learned counsel for the respondent was absent and hence, the case was adjourned to 16.06.2021. On 16.06.2021 also, the learned counsel for the respondent was absent. The learned counsel for the petitioners argued the matter and the case was adjourned to 25.06.2021. On 25.06.2021 also, the learned counsel for the respondent was absent. This Court, upon finding that the learned counsel for the respondent was repeatedly absent, directed the Registry to post the matter under the caption 'for orders' today i.e. 05.07.2021. Even today, the learned counsel for the respondent is absent.

8. The revision petitioners are defendants 3 and 4 in O.S.No.304 of 2013 on the file of District Munsif Court, Chengalpet. They had filed an application under Order VII Rule 11 of the Code of Civil Procedure seeking to reject the plaint on the ground of limitation and undervaluation of the suit. The trial Court had, by a cryptic order, dismissed the application stating that the title, possession and cause of action could be decided at the stage of trial. The order passed by the trial Court is against the scope of Order VII Rule 11 of the Code of Civil Procedure.

In view of the above, the Civil Revision Petition is allowed and the order dated 29.06.2015 passed in I.A.No.218 of 2014 in O.S.No.304 of 2013 on the file of learned District Munsif, Chengalpet, is set aside. The matter is remitted back to the trial Court to decide the matter on merits. The trial Court is directed to take the interlocutory application on its file, hear the parties and pass a reasoned order taking into consideration the facts and merits of the case, within a period of two months from the date of receipt of a copy of this order. No costs.

05.07.2021

Index: Yes / No, Speaking order / Non speaking order
gm

To

The District Munsif,
Chengalpet.



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A.D.JAGADISH CHANDIRA, J

gm



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