



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2021

CORAM:

THE HONOURABLE **MR. JUSTICE N.ANAND VENKATESH**

C.R.P(MD) .No.818 of 2021

Arulanandam

... Petitioner/Plaintiff

Vs.

Anthony

... Respondent/Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the docket order dated 19.01.2021 and direct the learned Sub-Judge, Dindigul to number the Unnumbered O.S.No. of 2020.

For Petitioner : Mr.M.P.Senthil

O R D E R

This Civil Revision Petition has been filed challenging the return endorsement made by the Court below dated 19.01.2021 and for a consequential direction to the Court below to entertain the plaint and number the suit.

2. The petitioner has filed the plaint before the Court below seeking for the relief of partition. The petitioner has valued the suit for the purpose of Court Fees and jurisdiction under Section 37 (2) of the Tamil Nadu Court Fees and Suits Valuation Act. The plaint came to be filed during December 2020 and it is being returned repeatedly by the Court below on the ground that the petitioner has to furnish document showing the market value of the suit property from the Competent Authority.

3. The petitioner has given an explanation before the Court below by citing Section 7(2) of the Tamil Nadu Court fees and Suits Valuation Act and taking a stand that the Court can accept the valuation made by the plaintiff at the initial stage of numbering the suit and as and when any objection is raised by the other party, the issue regarding the market value can be taken up for consideration.

4. In spite of the explanation given by the petitioner, the Court below has not entertained the plaint and it has been again



returned insisting for Valuation Certificate. Aggrieved by the same, the present Civil Revision Petition has been filed before this Court.

5. In the considered view of this Court, the petitioner has filed the suit seeking for the relief of partition and has valued the suit under Section 37(2) of the Tamil Nadu Court Fees and Suits Valuation Act. Section 7(2) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 makes it very clear that the assessment made by the plaintiff shall be accepted by the Court at the initial stage of numbering the suit. It is also made clear by the said provision that if any objection is raised by the other party, the same can be considered at that point of time. The Court seems to be harping upon Section 7(1) of the Act which deals with the market value of the property where the Court fee is payable depending upon the same. For the purpose of determining the market value, the market value fixed under Section 47-AA of the Indian Stamp Act shall be taken as the guiding factor. Therefore, the Court below is insisting that the petitioner should get a certificate and only thereafter, the plaint will be entertained. In the considered view of this Court, a discretion has been given to the Court to entertain the plaint based on the assessment made by the plaintiff at the initial stage while numbering the suit. This discretion must be exercised by the Court on a case to case basis. For instance, if a suit is filed by showing the value of the property which is ridiculously low, it will always be open to the Court to insist for the real market value to be reflected for the purpose of valuation of the suit. For this purpose, a Court may insist for a Valuation Certificate. However, in the present case, the suit has been filed seeking for the relief of partition and the petitioner has valued the suit and paid the Court fee under Section 37(2) of the Tamil Nadu Court Fees and Suits Valuation Act. In cases of this nature, the Court below can exercise its jurisdiction under Section 7(2) of the Act and proceed to number the suit based on the assessment made by the plaintiff. If any objection is made by the other party at a subsequent point of time, the issue can always be dealt with at that point of time. The Court below need not waste its time by repeatedly returning the plaint, insisting for a Valuation Certificate in the present case.

6. In view of the above discussion, there shall be a direction to the petitioner to re-present the plaint before the Court below within a period of two weeks from the date of receipt of a copy of this order. The Court below is directed to number the suit based on the assessment made by the plaintiff and the Court fee that has already been paid. If, in case, any objection is raised at a later point of time regarding the valuation of the suit, the Court below can always deal with the same at that time. This process shall be completed by the Court below within a period of two weeks from the date of re-presentation of the plaint by the petitioner.



7. The Civil Revision Petition is disposed of with the above directions. No costs.

8. Registry is directed to return back the original plaint to the learned counsel for the petitioner to enable the petitioner to re-present the plaint before the Court below. A copy of the plaint shall be retained by the Registry for record purpose.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ssb

To

The learned Sub-Judge, Dindigul

Copy to
The Section Officer,
E.R Section,
Madurai Bench of Madras High Court,
Madurai.(Return the original plaint)

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-18673[F] dated 03/06/2021)

Order made in
C.R.P (MD) .No.818 of 2021

Dated:
03.06.2021

CN(15.06.2021) 3P 4C