



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2021

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.(PD) (MD) No.817 of 2019

and

C.M.P.(MD) No.4974 of 2019

Thahakhan .. Petitioner/Petitioner/
1st Defendant
-vs-
1.Farithulla Khan
2.Kaja Kamaludeen
3.Feroz Khan
4.Pasheer Ibunu
5.Segujalaludeen .. Respondents/Respondents/
Plaintiffs

Prayer :- Petition filed under Article 227 of the Constitution of India to call for the records and set aside the fair and executable order dated 05.02.2019 passed in the application in I.A.No.191 of 2016 in O.S.No.121 of 2012 on the file of the District Munsif Court, Ramanathapuram.

For Petitioner : Mr.J.Barathan
For Respondents : Mr.G.Prabhurajadurai
for Mr.M.S.Jeyakarthick

ORDER

The 1st defendant is the revision petition before this Court challenging the order dated 05.02.2019, passed by the learned District Munsif, Ramanathapuram, in I.A.No.191 of 2016 in O.S.No.121 of 2012.

2.The suit has been filed by the plaintiffs/respondents herein for a declaration that the suit properties belonged to them and for a consequential injunction restraining the defendants from interfering with their peaceful possession and enjoyment of the suit property and for costs.

3.The property in question has been described as a Punja land comprised in Natham survey. The 1st defendant/petitioner herein, on entering appearance, has filed his written statement and one of the defence taken is that the suit has not been valued properly and that



the learned District Munsif, Ramanathapuram, does not have the pecuniary jurisdiction to hear the suit, since the value of the property exceed the pecuniary jurisdiction of the Court.

4.As a sequel to this defence, the 1st defendant had filed I.A.No.191 of 2016 to reject the plaint, as its value is above the pecuniary jurisdiction of the Court. In the affidavit filed in support of the said application, the petitioner in a very great detail stated that the property in question has been described as a Natham land viz., house site and therefore, it has to be valued as per the market value. The total extent was 3 acres and 30 cents and the guideline value was a sum of Rs.80/- per sq.m. equivalent to a sum of Rs.34,880/- per cent. Therefore, the petitioner/1st defendant would contend that the value of the property was over Rs.30,00,000/- and the learned District Munsif, Ramanathapuram, did not have the jurisdiction to try the same.

5.The plaintiffs had resisted the said application *inter alia* contending that Court fee has been paid as per Section 25(b) of the Tamil Nadu Court Fees and Suit Valuation Act, 1965 (for brevity "the Act") and not as per Section 25(d) of the Act. They would deny that the value of the suit property was over Rs.30,00,000/-. The plaintiffs had taken out a defence that the valuation of the property has been made as per the provisions of Section 7 of the Act, which contemplated calculation on the basis of kist paid.

6.The learned District Munsif, Ramanathapuram, after hearing both parties, proceeded to dismiss the said application. The learned Judge had stated that the suit properties are comprised in S.Nos.224/1 and 224/19 whereas, the property covered in Ex.P2 were lands comprised in S.No.224/2. Therefore, the market value shown there will not apply to the suit properties. The learned Judge also opined that there were no houses in the suit survey number. Therefore, the contention of the defendants cannot be countenanced. Challenging the said order, the 1st defendant is before this Court.

7.Mr.J.Barathan, learned counsel appearing on behalf of the petitioner would draw the attention of this Court to the chitta given by the plaintiffs in respect of S.Nos.224/1 and 224/19 where it has been clearly stated that the property is a Natham land. Further, the order transferring the patta also classifies the lands comprised in S.Nos.224/1 and 224/19 as Natham.

8.Mr.G.Prabhurajadurai, learned counsel appearing on behalf of the respondents, on the other hand, would contend that even as per the chitta, the property has been described as Ryotwari Punja lands. Further, the lands in question have retained their classification, though the surrounding properties have been changed into house sites. He would submit that therefore, the order of the Court below has to be sustained.



9. Heard the learned counsel on both sides and perused the records.

10. The controversy appears to be with reference to the classification of the lands and the documents provided by the parties. The land is described as the Natham land. However, when showing the extent, it has been described as Punja land. If the property is treated as Punja land, then the court fee paid would be adequate. However, if the property in question is a house site, then its market value has to be taken into account. If the market value of the property exceeds the pecuniary jurisdiction of the District Munsif Court, Ramanathapuram, then the suit has to be returned and presented before the Court having proper jurisdiction, since any judgment, passed by a Court not having jurisdiction, is a nullity. A reading of Section 7 of the Act, as it existed prior to the amendment, would show that in case the property is a house site, the market value is to be considered whereas, if it is an agricultural land, then the value of the property can be calculated 30 times the kisth paid. Therefore, this Civil Revision Petition is allowed and the order dated 05.02.2019 passed by the learned District Munsif, Ramanathapuram, is set aside and the matter is remitted back to the learned District Munsif, Ramanathapuram to consider the issue regarding the classification/nature of the land in question. Once the classification is determined, the value on the basis of its classification has to be arrived at and if it is found that the value exceeds the jurisdiction of the District Munsif Court, Ramanathapuram, then the learned Judge shall return the plaint to the respondents/plaintiffs with a direction that the same to be presented before the Court having jurisdiction giving an opportunity to the plaintiffs to pay requisite court fee. The said exercise shall be completed within a period of one month from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr

Note:-In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.



To

The District Munsif,
Ramanathapuram.

WEB COPY
+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-
38191[F] dated 10/12/2021)

C.R.P. (PD) (MD) No.817 of 2019
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AM(CO)
KB(07.01.2022) 4P 3C