



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2021

CORAM :

THE HONOURABLE MS.JUSTICE **P.T.ASHA**

C.R.P. (MD) No.1069 of 2020

and

C.M.P. (MD) No.6944 of 2020

Sree Narayana Dharma Trust,
through its present President,
Swami Visudhananda,
S/o.Raghavan,
Periyaratha Veethi,
Thirupparankundram,
Madurai-5.

... Petitioner

vs.

1.V.Karthik

2.S.Gunam

3.S.Senthil

4.S.Jegan

... Respondents

PRAYER:- This Petition is filed under Article 227 of the Constitution of India, to set aside the fair order and decreetal order dated 14.10.2020 passed in I.A.No.93 of 2019 in O.S.No.225 of 2018 on the file of the learned District Munsif, Thirumangalam, Madurai District.

For Petitioner : Mr.S.Sadeskumar

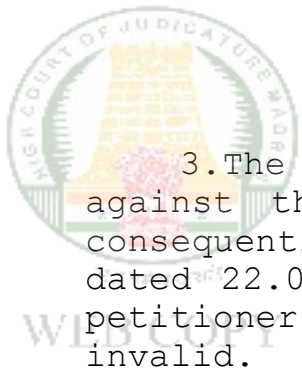
For Respondents : Mr.R.Ganesan

ORDER

The unsuccessful defendant, whose petition for rejecting the plaint has been dismissed, is before this Court challenging the order passed in I.A.No.93 of 2019 in O.S.No.225 of 2018 on the file of the learned District Munsif, Thirumangalam, Madurai.

2.The facts in brief, which has preceded the filing of the above revision petition, are as follows:-

<https://hcservices.ecourts.gov.in/hcservices/>



3.The respondents/plaintiffs had filed the above referred suit against the petitioner herein for the reliefs of declaration, consequential injunction and for declaration that the sale deed dated 22.06.2018 registered as Doc.No.2334/2018, under which the petitioner herein had purchased the property, is null and void and invalid.

4.The case of the respondents was that the entire extent of 2 acres and 30 cents situate in S.No.407/3 of the suit schedule village belonged to the predecessor in title of the respondents. It is also the case of the respondents that the property devolved on their father, namely, Munusu @ Subramanian. On his death, the plaintiffs 2 to 4 and one Vijayan were the only sons. The 1st respondent is the son of the said Vijayan. The respondents have been in possession and enjoyment of the said properties and they have been enjoying the property jointly. S.No.407/3 now subdivided as S.Nos.407/3A1A1 and 407/3B. Since there was no rains as drought condition exists, no cultivation was being done on the said lands.

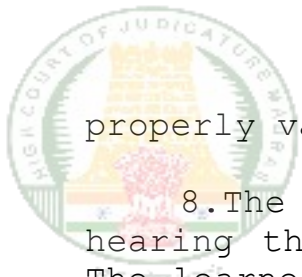
5.The petitioner, who has no right or interest on the suit property, with an intention of grabbing the same has created forged documents and on the basis of this fake documents, has created a sale deed dated 22.06.2018 in respect of 1820 sq.ft., of land. This document, which is the sale deed in favour of the petitioner, has been registered as Doc.No.2334/2018. While the Revenue Authorities were updating the registers by an oversight, third party names have been included in the patta. On coming to know about the same on 15.05.2018 and 13.08.2018, the respondents had given a petition to the Revenue Authorities to correct the entries.

6.It is the case of the respondents that on 04.08.2018, when they were cleaning the lands for starting the cultivation, the petitioner and his men had objected to the same and created ruckus. This has prompted the respondents to file the above suit. The petitioner had filed the impugned application, namely, I.A.No.93 of 2019 to reject the plaint. Rejection of the plaint was on the following grounds:-

a) The suit property has been under valued and consequently, the suit has been valued for a lower amount and consequently, the Court fee paid was low.

b) The Court lacks jurisdiction as the property is of a higher value and had the suit been properly valued, the Court, namely, the District Munsif Court, Thirumangalam, Madurai, would not have the pecuniary jurisdiction to try the same.

7.The respondents had filed a counter *inter alia* denying the contents of the petition stating that the property has been



properly valued by calculating the same as per the kist value.

8.The learned District Munsif, Thirumangalam, Madurai, on hearing the parties and perusing the records dismissed the suit. The learned Judge accepted the defense of the respondents that the property had been valued at 30 times the kist value. That apart, in the sale deed, under which the petitioner had purchased the property, the respondents are not a party and therefore, the suit had been valued correctly under Section 25 (d) of the Tamil Nadu Court Fees and Suit Valuation Act, 2017. The learned Judge had held that the petitioner had not made out any grounds for rejecting the plaint and that apart, the issue of Court Fees could be taken up as a preliminary issue and there was no necessity to reject the entire plaint. Challenging the said order, the petitioner is before this Court.

9.Arguments, which were advanced before the learned District Munsif, Thirumangalam, Madurai, are once again raised before this Court. As rightly pointed out by the Court below, it is well open to the petitioner to seek a direction that the issue of Court fee be treated as a preliminary issue before the Court gives any finding on the other issues. There is no necessity to reject the plaint. Further, even as per the procedures contemplated under Order VII Rule 11 of the Code of Civil Procedure, an opportunity has to be given to the respondents to pay sufficient Court fees within a time fixed by the Court and only if the same is not done, the plaint could be rejected.

10.In the instant case, the defendant in their defense had raised the issue of Court fees. I do not find any infirmity in the order passed by the learned District Munsif, Thirumangalam made in I.A.No.93 of 2019 in O.S.No.225 of 2018. While dismissing this Civil Revision Petition, it is needless to state that if the petitioner wishes to raise the issue of Court fee, the same should be tried as a preliminary issue by the learned District Munsif, Thirumangalam, Madurai.

11.In fine, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

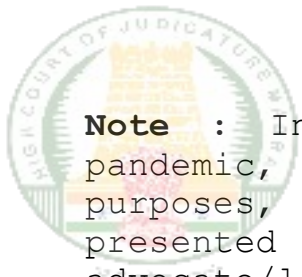
Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar (CS)



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.

WEB COPY

To

The District Munsif,
Thirumangalam,
Madurai.

C.R.P. (MD) No.1069 of 2020
24.11.2021

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