



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 09.07.2021

PRONOUNCED ON : 27.08.2021

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP (MD) No.1314 of 2014

MP (MD) No.1 of 2014

(Through Video Conferencing)

K.Raj

Petitioner/Plaintiff/Respondent

Vs

1.M.Murugesan
2.K.Raju
3.K.Paliswari
4.K.Sheela
5.K.Suriyakala
6.K.Jeyanthi

Respondents/Defendants 4,5,7,8,9,10/
Petitioners

Prayer:- This Civil Revision Petition has been filed, under Article 227 of Constitution of India against the order dated, 04.04.2014, made in IA.No.443 of 2010 in OS.No.204 of 2010, by the Sub Court, Theni.

For Petitioner : Mr.S.Siva Thilagar

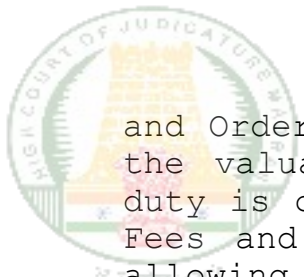
For Respondent s : Mr.T.Arul for Mr.A.R.Kannappan

ORDER

1.This Civil Revision Petition has been filed, against the order dated, 04.04.2014, made in IA.No.443 of 2010 in OS.No.204 of 2010, by the Sub Court, Theni.

2.The facts of the case, in a nutshell, are that the Plaintiff is the Petitioner and the Defendants 4, 5, 7 to 10 are the Respondents. The suit was filed for declaration of title and for consequential reliefs. The Respondents had filed the above application seeking to frame an issue as to whether the court below has jurisdiction to try the suit. In and by the impugned order, the said application was allowed and hence, the Plaintiff had filed this Civil Revision Petition.

3.The learned counsel for the Petitioner has submitted that the court below has failed to appreciate the scope of Order 14 Rule 2



and Order 7 Rule 11 of CPC and that when the Respondents question the valuation of the suit property and payment of court fee, a duty is cast upon it under Section 12(2) of the Tamil Nadu Court Fees and Suits Valuation Act and that the court below erred in allowing the application without assigning proper reasons, when the averments of the Respondents are not supported by valid documents and hence, the impugned order is not sustainable. The learned counsel would rely on the decisions reported in 2012 5 LW 197 Division Bench (S.N.S.Sukumaran Vs. C.Thangamuthu), 2013 2 LW 115 (M/s.Capital Film Works (India) Limited Vs. Thiagarajan Kumararaja), 2011 2 LW 332 (Astral Cables Limited Vs. The National Small Industries Corporation Limited), 2006 4 LW 896 (Ramesh B.Desai and others Vs. Bipin Vadilal Mehta and others), 2007 2 CTC 803 (M.Aswath Vs Jeeja Baby and others) and 2002 2 CTC 513 (V.R.Gopalakrishnan Vs. Andiammal).

- 4.The learned counsel for the Respondents has submitted that by suppressing the original value of the suit property fraudulently, court fee was paid and that if the original value of the suit property is taken into consideration, the court fee to be paid would be Rs.82,01,160/- and in such event, the court below has no jurisdiction to try the suit and consequently, the suit will not lie in the court below and hence, the impugned order was rightly passed. The learned counsel would rely on the decisions reported in 1995 2 CTC 492 (G.Loganathan Vs. S.Chenniya Chettiar), 2003 4 CTC 451 (Nirmala Balagopal Vs. Venkatesulu Balagopal) and 2002 2 CTC 513 (V.R.Gopalakrishnan Vs. Andiammal).
- 5.This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.
- 6.The Respondents had filed the application, seeking to frame a preliminary issue as to whether the court below has jurisdiction to try the suit on the ground that by suppressing the original value of the suit property, the Court fee was paid.
- 7.According to the Respondent, since the application was filed under Order VII Rule 11 of CPC, which deals with the cause of action, the prayer to determine the preliminary issue of jurisdiction on the ground of payment of improper Court fee is not maintainable. Mere quoting of wrong provision will not entitle the Petitioner to seek for dismissal of the application on that ground, because, though a wrong provision is quoted, it is the duty of the Court to apply the correct provisions of law. Further, the application, seeking to determine the Court fee, had been filed at the earliest point of time.
- 8.As per Order VII Rule 10 and 10A of CPC, the Court has got power to return the plaint at any stage for being presented before the proper court and after deciding the valuation of the suit



property, the Court can decide as to which Court the plaint is to be returned for proper presentation.

9. Since the issue raised by the Respondents is relating to the jurisdiction of the Court on the ground of payment of improper court fee, the court below, applying the proper provision of law, had rightly accepted the contention of the Respondents and allowed the application by the impugned order. Further, no prejudice will be caused to the Petitioner. Hence, this Court is of the considered view that the impugned order does not suffer from any infirmity or irregularity, warranting interference by this Court.

10. In fine, this Civil Revision Petition is dismissed. No costs. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Srcm

To

1. The Sub Ordinate Judge, Theni

Copy to:-

The Section Officer,

V.R Section

Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.SIVA THILAKAR, Advocate (SR-27577[F] dated 27/08/2021)

+1 CC to M/s.A.R.KANNAPPAN, Advocate (SR-27589[F] dated 27/08/2021)

CRP (MD)No.1314 of 2014

RD(13.09.2021) 3P 6C