



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2021

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (PD) (MD) No.1751 of 2021

and C.M.P. (MD) No.9328 of 2021

WEB COPY

Kasi Nadar (Died)

Ayan Eswaran @ Iyan Eswaran

@ Ayyaneswaran,

S/o.Kasi Nadar

.. Petitioner/2nd Plaintiff

-VS-

1.Thangathai

W/o.Rajamani

2.Pitchaithangam, S/o.Rajamani

3.Pitchaimuthu, S/o.Rajamani

4.The Tahsildar,

Vilathikulam Taluk,

Thoothukudi District.

5.The Sub Registrar,

Vilathikulam Taluk,

Thoothukudi District.

6.The Executive Officer,

Vilathikulam Town Panchayat,

Thoothukudi District.

7.Government of Tamil Nadu,

Through its District Collector,

Thoothukudi, Thoothukudi District.

8.The Tamil Nadu Electricity Department,

Through its Assistant Electricity Engineer,

Vilathikulam, Thoothukudi District.

9.The District Superintending Engineer,

Tamil Nadu Electricity Board,

Thoothukudi.

.. Respondents/Defendants

Prayer :- Petition filed under Article 227 of the Constitution of India against the issue framed in O.S.No.31 of 2013 on the file of the Sub Court, Kovilpatti on 07.12.2019.

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



For Petitioner : Mr.C.Selvakumar
For RR 8 & 9 : Ms.M.Parameswari,
Standing Counsel

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ORDER

This revision is filed by the petitioner/2nd plaintiff challenging the order of the Sub Court, Kovilpatti dated 07.12.2019 in O.S.No.31 of 2013 in framing a single issue viz., whether the Court has pecuniary jurisdiction to try the suit.

2.The deceased plaintiff, Kasi Nadar has filed the suit in O.S.No.31 of 2013 for declaration and recovery of possession and to declare that the Settlement Deeds executed by the first respondent in favour of the 2nd and 3rd respondents as null and void. Since the said Kasi Nadar had passed away, the petitioner herein was impleaded as the 2nd plaintiff. The suit was filed on the ground that the first item of the suit property belongs to the said Kasi Nadar under a registered Sale Deed dated 24.03.1965 to an extent of 10 cents in S.No.34/5 out of 2.80 acres. The first respondent along with her sons viz., respondents 2 and 3 herein, were given permissive possession to stay in a small hut put up in the 10 cents of land so as to enable her to take care of the adjacent land, situated in S.Nos.34/1B2 and 34/1C to an extent of 4.10 acres, which once again belongs to the deceased plaintiff by means of a registered Sale Deed.

3.While so, the plaintiffs came to learn that the first respondent had executed two registered Settlement Deeds in respect of the suit properties in favour of the 2nd and 3rd respondents respectively. Reading of the Settlement Deed would indicate that the 1st respondent had claimed to have purchased the property from Kasi Nadar in the year 1987 and thereafter, constructed house with an asbestos roofing. On coming to know about the said transaction, the said Kasi Nadar had filed the suit.

4.The 3rd respondent has filed a written statement, which was adopted by respondents 1 and 2. This written statement was filed nearly three years and six months after the respondents had entered appearance. They had also raised an issue that the schedule property being a house site, the guideline value would be over Rs.25,00,000/- and therefore, the suit cannot be tried by the Subordinate Judge, Kovilpatti besides raising other issues.

5.The learned Subordinate Judge, Kovilpatti while framing issues, had only framed a single issue with reference to the pecuniary jurisdiction. Challenging the same, the petitioner/2nd plaintiff is before this court.



6. When the matter came up for admission, respondents 8 and 9 were represented by their counsel Ms.M.Parameswari, who agreed to this Court passing final orders in the Civil Revision Petition.

7. I have heard the learned counsels.

8. The learned Subordinate Judge, Kovilpatti ought not to have framed a single issue especially when, the parties have raised several issues in their respective pleadings. The learned Judge, ought to have framed all issues and could have taken up the issue now framed as a preliminary issue. If this is not done and in case, the petitioner is in a position to convince the Court on the issue of pecuniary jurisdiction, then once again, issues will have to be framed in respect of other issues as well which would only result in protracting the pleadings.

9. Order XIV Rule 2(2) of Code of Civil Procedure provides that where issues of law and fact arise, and the Court is of the opinion that the case or any part may be disposed of on an issue of law only, such issue may be tried first, if it relates to jurisdiction of the Court or to a bar with the suit created by any law for the time being in force. While doing so, the Court shall postpone the settlement of other issues till such time the first issue is determined. However, the Court cannot restrict the framing of issues only to a single issue even if it relates to the jurisdiction.

10. In view of the above, the order of the Court below dated 07.12.2019 in framing a single issue is not in order and is therefore, set aside and the learned Subordinate Judge, Kovilpatti is directed to frame all the issues that arise in the suit, including the issue now framed and thereafter, take up the issue of pecuniary jurisdiction as a preliminary issue and determine the same and thereafter, proceed to discuss the other issues, if so required.

11. With the above observations and direction, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

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

1. The Sub Court, Kovilpatti.
2. The Tahsildar,
Vilathikulam Taluk,
Thoothukudi District.
3. The Sub Registrar,
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4. The Executive Officer,
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Vilathikulam, Thoothukudi District.
7. The District Superintending Engineer,
Tamil Nadu Electricity Board,
Thoothukudi.

+1 CC to M/s.SPL GP (SR-34572[F] dated 16/11/2021)

C.R.P. (PD) (MD) No.1751 of 2021

Dated: 15.11.2021

TP (CO)

TR(29.11.2021) 4P 9C