



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2021

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THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P (PD) (MD)No.1725 of 2021

Chellathangam

... Petitioner/Plaintiff

Vs.

1.Kumaresan
2.Thirumal
3.Seetha
4.Pushparani
5.Godwin
6.Asha
7.Nesika

... Respondents/Defendants

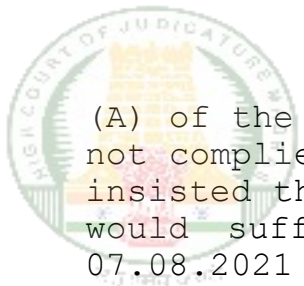
PRAYER:- Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the Docket Order passed by the Subordinate Court, Kuzhithurai, in unnumbered suit in O.S.No. of 2021 (Filing No.CF 2193-filing OS/149/2021 (TNKKOC0001192021) dated 07.08.2021 and consequently, direct the learned Subordinate Judge, Kuzhithurai to number the unnumbered O.S.No. of 2021 by allowing this civil revision petition.

For Petitioner : Mr.B.Christopher

ORDER

The above civil revision petition is filed challenging the returns being made by the learned Subordinate Judge, Kuzhithurai in unnumbered suit in O.S.No.-- of 2021 (Filing No. CF 2193-filing OS/149/2021(TNKKOC0001192021)), dated 07.08.2021, directing the petitioner/plaintiff to provide the value of the suit property for the purpose of ascertaining the pecuniary jurisdiction.

2.The plaintiff has filed a suit for partition of her 1/5th share in the suit schedule property. The plaintiff has valued the property notionally at Rs.3,00,000/-. The suit has been instituted on 15.03.2021. The learned Subordinate Judge had returned the papers. One of the return was that the value of the property and the plaintiff's share should be specified and the guideline value had also to be filed. The plaintiff had re-presented the papers stating that for the purpose of Section 37(2) of Tamil Nadu Court Fees and Suit Valuation Act, a notional value alone is required and not the market value. Once again, the learned Subordinate Judge had returned the papers stating that in the light of Section 7 of the Amended Court Fees Act, the guideline value fixed under Section 47



(A) of the Indian Stamp Act, has to be specified. The plaintiff has not complied with the direction of the learned Subordinate Judge and insisted that the case being one for partition and a notional value would suffice. The learned Judge had returned the papers on 07.08.2021 for the following reasons:-

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This case is filed for partition of plaintiff share, valued at Rs.3,00,000/- and Court fee paid u/s 37(2) of TNCF Act. This Court already returned this plaint, on what basis the plaintiff share value, valued at Rs.3,00,000/- to determine this Court's pecuniary jurisdiction to maintain this suit.

The plaintiff counsel was not answered to the above said clarification. As per Section 7(2) for partition of plaintiff share in a joint possession fixed court fee Rs.5,000/- other than High Court. But to determine the pecuniary jurisdiction of Court the partition suit by District or Sub Court or Munsif Court the value of the plaintiff share to be stated. In this case the plaintiff stated in his plaint, the plaintiff's share value is Rs.3,00,000/-. But nowhere stated on what basis that plaintiff's share value, valued at Rs.3,00,000/-. 11 items of properties mentioned in this plaint. None of the properties market value stated in this plaint. How this plaintiff share value assessed, his share value is Rs.3,00,000/- on what basis the plaintiff assessed his share value is Rs.3,00,000/- to be stated to entertain this suit by this Court and to maintain this suit by this Court on pecuniary jurisdiction.

Explanation given not sufficient to clarify the above said query raised by this Court. Hence, returned. Time one months.

3.It is this docket order that is the subject matter of challenge. Section 7 of the Tamil Nadu Court Fees and Suit Valuation Act has been amended as follows:-

7.Determination of market value:- (1) Save as otherwise provided, where the fee payable under this Act depends on the market value of any property, such value shall be determined as on the date of presentation of the plaint.

(2) The market value of land in suits falling under sections 25(a), 25(b), 27(a), 29, 30, 37 (1), 37 (3), 38, 45 or 48 shall be deemed to be --

(a) where the land is ryotwari land, thirty times the survey assessment on the land:

(b) where the land is situated in an estate as defined in subsection (2) of section 3 of the [Tamil Nadu] Estates Land Act, 1908 (Tamil Nadu] Act I of 1908), not being a land



of the description mentioned in sub-clause (g) and such estate has been taken over by the Government under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Tamil Nadu Act XXVI of 1948), thirty times the land revenue payable on the land under section 23 of that Act; but if a ryotwari settlement has since been effected in pursuance of section 22 of that Act, in respect of such land, thirty times the assessment as so fixed;

(c) where the land is situated in an estate which became an estate under the Tamil Nadu Estates Land (Third Amendment) Act, 1936 (Tamil Nadu Act XVIII of 1936), thirty times the rent payable for the land fixed under the Tamil Nadu Estates Land (Reduction of Rent) Act, 1947 (Tamil Nadu Act XXX of 1947);

(d) where the land is an 'estate' as defined in the Tamil Nadu Estates Land Act, 1908 (Tamil Nadu Act I of 1908)
--

(i) where separate peishkush is recorded in the Collector's register as payable for the estate-thirty times such peishkush;

(ii) in any other case-thirty times the annual melvaram realizable from the estate;

(e) where the land is a minor inam held under inam title deed, thirty times the assessment as noted in the village 'B' Register;

(f) where the land is in an inam village which, is not an 'estate' as defined in sub-section (2) of section 3 of the Tamil Nadu Estates Land Act, 1908 (Tamil Nadu Act I of 1908), thirty times the rent payable in respect of it;

(g) where the land is a house-site whether assessed to full revenue or not, poramboke land, or is land not falling within the foregoing description-its market value.

4. In the instant case, the plaintiff has not given any reason or proof as to how she has arrived at the value of Rs.3,00,000/-. The description of the property would indicate that the property in question are house sites. The learned Subordinate Judge seeks to have the value fixed in order to determine the pecuniary jurisdiction of the Court. Therefore, the plaintiff is bound to provide the value of the property in question so as to enable the learned Judge to determine, if he has the pecuniary jurisdiction to entertain the above suit and direct the same to be registered as a suit.

5. In these circumstances, I do not find any irregularity in the docket order dated 07.08.2021. Accordingly, this Civil Revision Petition is dismissed. No costs.



6.Registry is directed to return the original plaint to the petitioner, after getting necessary acknowledgements. The plaintiff shall be represented after duly complying the returns within two weeks from the date of receipt of a copy of this order.

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Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Subordinate Judge,
Kuzhithurai.

+1 CC to M/s.B. CHRISTOPHER, Advocate (SR-34425[F] dated 15/11/2021)
C.R.P (PD) (MD)No.1725 of 2021
11.11.2021

DKS (CO)

GC/SKN/SAR-I (26.11.2021) 4P 3C