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C.R.P(PD)No.3264 of 2022
and C.M.P.No.17313 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P(PD)No.3264 of 2022
and C.M.P.No.17313 of 2022

1.P.Vanitha
2.Kavitha
3.Anitha

...Petitioners

Vs.

Chakravarthy

...Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Decretal Order of the Learned Subordinate Judge, Omalur, Salem District dated 05.09.2022 in I.A.No.2 of 2021 in O.S.No.381 of 2018 and to dismiss the said I.A.

For Petitioners : Mr.T.M.Hariharan
For Respondent : Mr.S.Parthasarathy
Senior Advocate
for P.Dinesh Kumar for Caveator



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ORDER

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The Civil Revision Petition is filed challenging the order passed by the Court below allowing petition filed by the respondent under Order 6 Rule 17 of Code of Civil Procedure to amend the plaint mainly with regard to the value of the suit properties.

2. The respondent herein filed a suit against the petitioners seeking declaration of his title to the suit properties and for consequential decree for permanent injunction restraining the petitioners from alienating and encumbering the suit properties. The trial in the suit had commenced already. The respondent was examined as P.W.1. According to petitioners, during cross examination of P.W.1, he made certain admissions with regard to the value of the suit properties, which rendered valuation adopted by the respondent in his original plaint as defective. Therefore, the petitioners filed a petition in I.A.No.02 of 2021 under Section 12 (2) of Tamil Nadu Court Fees and Suits Valuation Act seeking a direction to the respondent to value the suit property in accordance with the market value/guideline value and amend the plaint to pay the deficit Court Fee accordingly. It is settled law that the petition under Section 12 (2) of the Court Fees Act shall be filed and decided before the



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commencement of recording of evidence on the merits of the suit claim. In the case on hand, petition by the Revision Petitioners under Section 12 (2) of Court Fees Act was filed only after the commencement of trial, that too based on the admissions of P.W.1. Nevertheless, the said petition was entertained and allowed by the Court below. Thereafter, the respondent filed an instant amendment application seeking to amend the plaint mainly with regard to the valuation of the suit properties. The respondent originally valued the suit at Rs.1,10,000/- (Rupees One Lakh Ten Thousand only) and paid the Court Fee of Rs.7,651/- (Rupees Seven Thousand Six Hundred and Fifty One only). Now, by virtue of the present amendment, the respondent values the suit properties at Rs. 13,73,230/- (Rupees Thirteen Lakhs Seventy Three Thousand Two Hundred and Thirty only) under Section 25 (b) of Tamil Nadu Court Fees Act and arrived at the Court fee payable at Rs 41,197/- (Rupees Forty One Thousand One Hundred and Ninety Seven Only). The trial Court allowed the said amendment applications and aggrieved by the said order, the petitioners have come up with this revision petition.

3.The learned counsel for the petitioners submitted that the respondent, when he was examined as P.W.1, admitted that the suit properties were worth



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about several crores of Rupees and contrary to his admission, now he values the suit property at a very low amount in order to evade the Court Fees.

The learned counsel had taken me to the admissions of P.W.1, wherein, he answered in cross examination that he came to know that the property situated at Bazaar Street, Omalur Town, Salem District may fetch a price of more than a Crore. Elaborating the same, the learned counsel for the petitioners submitted that the property at Bazaar street was described as Item No.6 in the plaint and therefore, that property alone would worth about more than a crore. He further had taken me to the evidence of P.W.1 who deposed that on 09.11.2011, his maternal uncle Mr.Vetrivel sold 2268 Sq.fts of property in Survey No. 44/2 for a price of Rs.4,54,000/- (Four Lakhs Fifty Four Thousand only). Relying on the said admission, the learned counsel said that Item No.8 of the suit property bearing Survey No. 44/2 would fetch more than a Crore as per the said admission of P.W.1. In nutshell, the learned counsel for the petitioners submitted that the admissions made by the respondent as P.W.1 would go to show that the value of the suit property would be much more than what is mentioned in the amendment application.



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4.Per Contra, the learned Senior Counsel appearing for the respondent/caveator would submit that the petitioner is not entitled to object the correctness of the valuation adopted by the plaintiff subsequent to the commencement of trial. By relying on Section 12 (2) of Tamil Nadu Court Fees and Suits Valuation Act, the learned Senior Counsel submitted that the petitioners can seek decision of the Court with regard to the Court Fees before recording of evidence and thereafter it is not open to the petitioners/defendants to stall the trial proceedings on the question of valuation and Court Fees.

5.Heard the arguments of learned counsel for the petitioners and the learned Senior Counsel appearing for the respondent / caveator and perused the typed set of papers.

6.Section 12 (2) of the Tamil Nadu Court Fees and Suits Valuation Act reads as follows:

“12. (2) Any defendant may, by his written statement filed before the first hearing of the suit or before evidence is recorded on the merits of the claim but, subject to the next succeeding sub-section, not latter, plead that the subject-matter of the suit has not been properly valued or that



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the fee paid is not sufficient. All questions arising on such pleas shall be heard and decided before evidence is recorded affecting such defendant, on the merits of the claim. If the Court decides that the subject-matter of the suit has not been properly valued or that the fee paid is not sufficient, the Court shall fix a date before which the plaint shall be amended in accordance with the Court's decision and the deficit fee shall be paid. If the plaint be not amended or if the deficit fee be not paid within the time allowed, the plaint shall be rejected and the Court shall pass such order as it deems just regarding costs of the suit.”

7. Section 7 of the Tamil Nadu Court Fees and Suits Valuation Act which deals with the determination of the market value of the suit property, reads 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.*

***Explanation.**—For the purpose of this section, “market value” means the market value fixed under section 47-AA of the Indian Stamp Act, 1899 (Central Act II of 1899):*



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Provided that in cases where the plaintiff assess the value of the immovable property at a lesser amount than the market value, he shall give adequate reasons as to why the market value fixed under section 47-AA of the Indian Stamp Act, 1899 (Central Act II of 1899) does not represent the real market value of that immovable property.

(2) The assessment made by the plaintiff shall be accepted by the court at the initial stage of numbering the suit, subject to objection that may be raised by the other party to the litigation.”

8.The conjoint reading of Sections 7 and 12 (2) of Tamil Nadu Court Fees and Suits Valuation Act, 1955 would suggest that expression "*market value*" means market value fixed under Section 47-AA of Indian Stamp Act, 1899. The Proviso to explanation says that in cases where the plaintiff assesses the value of the suit property at a lesser amount than the market value, he shall give adequate reasons as to why the market value fixed under Section 47-AA of Indian Stamp Act, 1899 does not represent the real market value of the immovable property and the averments made by the plaintiff shall be accepted at the initial stage of the numbering the suit, subject to any objection made by the defendants. It is also clear that in cases where the defendant disputes the valuation adopted by the plaintiff, all the proceedings relating to such plea



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shall be heard and decided before the evidence is recorded on the merits of the case. In the case on hand, as discussed earlier the trial had already commenced and P.W.1 was cross examined. It is not open to the defendants to raise the objections with regard to the valuation of suit based on any evidence that has come on record subsequent to commencement of trial and request the Court to decide the question of valuation immediately on his objection by stalling the trial. Any objection made by the defendants in their written statement with regard to the valuation, shall be decided before commencement of trial, but however once the trial is started, it is not open to the defendants to request the Court to decide the question of valuation based on the material that has come on record during trial. If such a course is permitted, the trial process will get stalled and that is why Section 12 (2) of the Court Fees Act specifically mandates that any question relating to valuation and Court Fee shall be decided before recording of evidence commences.

9. In the case on hand, the respondent filed an amendment petition seeking amendment of plaint with regard to the valuation. If the valuation adopted by the respondent/ plaintiff is wrong, it is always open to the revision petitioners to file additional written statement and object the mode of valuation



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adopted by the respondent. Since the trial had already commenced, it is not open to the revision petitioners to request the Court to decide his objections immediately by stalling the trial. Any objection raised by the revision petitioners with regard to the valuation adopted by the respondent, by virtue of present amendment, shall be decided by the trial Court along with other issues in the final disposal of the suit. The Court below, by the impugned order rightly allowed the amendment application filed by the respondent and if the petitioners are aggrieved by the valuation adopted by the respondent, they can very well file their additional written statement disputing the correctness of the valuation adopted by the respondent. The correctness or otherwise of the same shall be decided by the Court below along with other issues at the time of final disposal of the suit.

10. With these observations, Civil Revision Petition stands dismissed.

No Costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes / No
Speaking Order : Yes / No
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S.SOUNTHAR, J.

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To
The Learned Subordinate Judge,
Omalur,
Salem District.

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