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C.R.P.No.3814 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:22.11.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.3814 of 2022
and C.M.P.No.20048 of 2022

K.Chandrasekar

...Petitioner

Versus

K.Subramanian

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, pleased to set side the fair and decreetal order dated 07.06.2022 made in I.A.No.325 of 2019 in O.S.No.7 of 2012 on the file of Principal District Munsif, Tiruppur.

For Petitioner : Mr.S.Mukunth

O R D E R

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition filed by the revision petitioner/first defendant to decide preliminary issue with regard to the valuation adopted by the first respondent/plaintiff and the Court fees paid thereon.

2. The first respondent herein filed a suit for declaration, permanent



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injunction and mandatory injunction with alternative prayer for recovery of possession.

3. The first respondent valued the suit properties treating it as a "Punjai Agricultural Land", during the course of trial, a witness examined on behalf of the first respondent appeared to have made an admission that the properties had been divided into house sites. Based on the said admission, the petitioner herein filed the instant application in I.A.No.325 of 2019, seeking the Court below to frame a preliminary issue with regard to the valuation and Court fees paid on the plaint. The petitioner also filed two documents namely Ex.B1 and B2 in support of the claim disputing the valuation adopted by the first respondent. The Court below dismissed the application on the ground that after commencement of trial, it is not open to the revision petitioner, to seek framing of preliminary issue with regard to the valuation. At the time of dismissing the petition, the Court below also observed that the revision petitioner is at liberty to canvas the point concerning valuation at the time of final disposal of the suit.

4. The learned counsel for the petitioner submitted that though, the liberty is granted to the revision petitioner to canvas the point concerning valuation and Court fees at the time of final disposal, no issue has been framed



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specifically with regard to the correctness of the valuation and Court fees.

Therefore, he sought for a direction to the Court below to frame additional issue with regard to the correctness of the valuation and Court fees paid in the plaint. Admittedly, in the impugned order, the Court below has given a liberty to the revision petitioner to canvas the question of valuation and Court fees at the time of final disposal of the suit. In that case, it is always better to have an issue with regard to the Court fees and valuation adopted by the first respondent. If separate issue is framed with regard to the valuation and Court fees, the first respondent will not be prejudiced in any way. Therefore, it is made clear that the Court below shall frame a separate issue with regard to the valuation and Court fees and proceed with the trial in accordance with law.

5. With these observations, the Civil Revision Petition stands disposed of. No cost. Consequently, connected miscellaneous petition is closed.

22.11.2022

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Index: Yes/ No

Speaking Order / Non-Speaking Order



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S.SOUNTHAR, J.

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To

The Principal District Munsif, Tiruppur.

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