CMP.Nos.16256 of 2017, 15168 of 2016 & 900 of 2022
in S.A.No.647 of 2014
and S.A.No.912 of 2014

RMT.TEEKAA RAMAN, J.

1.CMP.No.900 of 2022:

(a) This petition has been filed by the plaintiff/first respondent in S.A.No.647 of 2014, to receive certain documents purported to have been filed by the third defendant/appellant before the Income Tax Authorities on the ground that the third defendant has approached him for a settlement and at that time he has handed over the documents and the same was filed.

(b).Mr.N.Somasundhar, learned counsel has filed a change of vakalath for the said second appellant in S.A.No.912 of and the fourth respondent in S.A.No.647 of 2014.

(c).According to Mr.N.Somasundhar, learned counsel, it is a fact that "income tax proceedings have been pending for the alleged violation of non payment of capital gains and penalty thereto", however, denied that having met the plaintiff/first respondent in both the second appeals and handed over the same.

(d).In view of the specific denial by the third defendant viz., S.Palanisamy represented by Mr.Somasundhar, learned counsel, those documents could be received only with regard to the admitted factum of pendency of income tax proceedings before the Commissioner, Income Tax, with regard to handing over of the document by the third defendant viz., S.Palanisamy to the first respondent/plaintiff viz., P.C.Ramasamy stands disputed.

2.CMP.No.16256 of 2017:

(a).This petition is filed by the first respondent/plaintiff viz., P.C.Ramasamy to receive additional documents viz., general power of attorney deed, cancellation deeds, sale deeds. With regard to the defendants, the sale deeds numbering five dated 20.12.2012 executed in favour of D8, D9, D10, D11 & D13, who were subsequently impleaded as the defendants before the Appellate Court, are taken on file and assigned as Exs.A42 to A49 series.

(b).Mr.Somasundhar, learned counsel would contend that he has not received any money for the transaction between D8 to D13, he has also denied receipt of Rs.1,50,000/- and the sale agreement dated 15.03.2012. The main contention of Mr.Somasundhar, learned counsel for the second appellant in S.A.No.912 of 2014 is that on 20.12.2012 eight documents were registered, out of which three documents are cancellation of the previous documents and five documents are the subsequent sale deeds effected by him in favour of D8, D9, D10, D11 and D13. Since, taking these documents on file is not disputed and that the same also relates to the subject matter of the property, the Registry is directed to assign Exs.A42 to A49 to these documents and Ex.A50 Assessment order dated 11.12.2017 and memorandum of appeal before commissioner of Income Tax, date 22.12.2017 is Ex.A51.

3.CMP.No.15168 of 2016:

This petition is filed by the appellants in S.A.No.647 of 2014 to permit the petitioners to raise the following additional substantial questions of law:

"a.Whether the Lower Appellate Court having

rendered a clear finding that the guideline value of the suit property is more than Rs.42,00,000/- from the endorsement made by the Sub-Registrar, Perundurai in Ex.A3, dated 05.07.2004 namely the sale deed was correct in allowing the appeal filed by the first respondent in A.S.No.23 of 2014 without deciding whether the suit has been properly valued for the purpose of Court fee and jurisdiction under Section 40 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955?

(b).Whether the Lower Appellate Court erred in allowing the appeal without an issue being framed on the aspect of pecuniary jurisdiction when the Lower Appellate Court itself was satisfied that the guideline value of the suit property is more that Rs.42,00,000/-."

this is one of the subsequent sale deeds, which has been marked as Ex.B series by the Registry.

4.Heard the aruguments of the learned counsels appeared for the original owner, general power of attorney, first purchaser and subsequent purchasers on the additional documents received.

5.Mr.N.Manoharan, learned counsel appearing for the first respondent/plaintiff has also filed citation reported in 2021 (3) MWN 825 and the same is taken on file.

6.All the CMPs are allowed subject to the observations made therein.

01.02.2022

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NOTE: The Registry is directed to send back the bundle to TKRJ Chamber as early as possible since the Judgment in the Second Appeal has been reserved.

RMT.TEEKAA RAMAN, J.

Dua

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