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C.R.P.No.278 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.278 of 2016
and
C.M.P.No.1292 of 2016

1.Premakumari
2.Surendran
3.Meenakshisundaram
4.Vijayalakshmi
5.Malathi
6.Murugappan
7.Revathi

.. Petitioners

VS

1.V.R.Maruthappan (died)
2.Karthikeyan
3.M.Rajendran
4.M.Babu @ Manoharan
5.M.Prabhakan
6.Meenakshi

*(R3 to R6 brought on record
as LRs of deceased R1 vide
order dated 21.09.2023)*

.. Respondents

Petition filed under Article 227 of the Constitution of India to set aside the order and decretal order dated 30.06.2015 made in I.A.No.300 of 2014 in O.S.No.61 of 2010 on the file of the Subordinate Judge, Mannargudi.



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For Petitioners : Mr.N.C.Ashok Kumar
For Respondents : Ms.P.T.Ramadevi for R4
R1 & R3 - died
R2,R5 & R6-Not ready in notice

ORDER

I cannot express anything but my anguish that for the past fifteen years, parties have been litigating only on an issue relating court fees.

2. O.S.No.41 of 2008 was filed before the District Court at Tiruvarur for the relief of declaration and for injunction. The claim of the plaintiff is that he is the owner of the property and he had mortgaged the property to the defendant. He states that as the defendant had denied the title of the plaintiff, which I feel, he cannot, if he is the mortgagee, he was constrained to present the suit for the aforesaid reliefs.

3. In the said suit, a written statement was presented, wherein the issue of court fee was never raised by the defendant. Nonetheless, on the basis of a statement given by P.W.1, during the course of his cross-examination, the learned Subordinate Judge at Mannargudi directed the parties to amend the plaint and bringing in the proper court fee.



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4. Accordingly, an application for amendment was filed valuing the property at Rs.6,30,200/- and undertaking to pay an additional court fee of Rs.7,875/-. The order of the Court having given a tool to the defendant, he swung into action and stated that the valuation of the suit was not proper. This constrained the Court to issue "test batta" for the purpose of valuation of the property on 19.02.2015.

5. Pursuant to this order, a Court Amin went to the property for the purpose of valuation. In the valuation report, the Amin found that the guideline value as per the Sub-Registrar office is Rs.1,000/- but on a local enquiry conducted by him, he came to know that the valuation is Rs.1,800/- per sq ft. On this basis, he calculated the market value on 05.03.2015 at Rs.38,88,000/-. When this report came before the Court for perusal and passing orders, the Court rightly considered the fact that the test batta was of the year 2015, but the suit is of the year 2008 and, therefore, reduced 50% on the value of Rs.38,88,000/- and came to a conclusion that the Court fee that should be payable is Rs.19,44,000/-.



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6. The report submitted by the Deputy Nazir has been placed before me. The learned Judge has taken higher of the two values. I note that no record has been produced before the Deputy Nazir to come to a conclusion that the valuation was Rs.1800/- per sq ft for the suit schedule mentioned property.

7. *Ipse dixit* of certain unknown and unspecified persons specified in the report cannot be the basis of valuation. There were two records available before the Court. One is the guideline value given by the Sub-Registrar and the other is the oral testimony of unknown persons made to the Deputy Nazir. The Court should have accepted the report that had been given by the Sub-Registrar and should have valued the property at Rs.1000/- per sq ft as on 05.03.2015 and thereafter given 50% deduction that he rightly gave.

8. I necessarily have to recall the legal position of law laid down by this Court in *P.Ramaswamy Gounder v Ambujam and others* (1987) 1 MLJ 113 that for the purpose of court fee and valuation, the valuation given in the plaint must be taken to be true. The Court always has the power vested in it to check the valuation in case doubts arises. Doubt having arisen in this case, it



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has verified it and came to a conclusion that the guideline value is only Rs.1000/-. I am constrained to interfere with the order so far as the valuation has been fixed at Rs.19,44,000/-. I would go by the Government Record and I hold that the valuation is Rs.500/- per sq ft on the date of presentation of the plaint and would fix the value at Rs.21,60,000/- as reported by the Deputy Nazir on 05.03.2015.

9. Having come to this conclusion, it still remains that the additional valuation that have to be paid is Rs.10,80,000/- and not Rs.19,44,000/-. Either way, the learned Subordinate Judge, would not have jurisdiction and the suit would have to necessarily go back to the District Court at Tiruvarur. The interference by this Court is only insofar as the valuation is concerned. The plaintiff shall value the suit at Rs.10,80,000/- and pay the appropriate court fee less the court fee of Rs.39,390.50/- already paid. Three weeks' time from today is granted for payment of additional court fee.

10. If the plaintiff pays the court fee within the stipulated period, the learned District Court at Tiruvarur is requested to re-number the suit and take it up for disposal from the stage at which



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the plaint was returned by learned Subordinate Judge at Mayiladuthurai. To make it clear the Court need not reinvent the wheel. The evidence already recorded shall be considered by the District Court at Tiruvarur. On such payment of additional court fee, the learned District Judge, Tiruvarur is requested to dispose of the suit on or before 30.04.2024 and submit a report to this Court.

11. With the above directions, the civil revision petition stands disposed of. No costs. Connected miscellaneous petition is closed.

22.09.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm

To

- 1.The Subordinate Judge, Mannargudi.
- 2.The District Judge, Tiruvarur.



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V. LAKSHMINARAYANAN,J.

ssm

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