



CRP.No. 2279 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.02.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

CRP.No. 2279 of 2020
and
CMP.No. 14275 of 2020

T. Marappan

... Petitioner

Versus

1. The Tamil Nadu Housing Board
Represented by its Managing Director
Mount Road (Anna Salai)
Nandhanam, Chennai-35.
2. The Superintending Engineer
Iyyan Thirumaligai
Yercaud Road, Salem.
3. The Executive Engineer and
Administrative Officer
Iyyan Thirumaligai
Yercaud Road, Salem.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, prays to issue a suitable directions to the Subordinate Judge, Thiruchengode to number the first appeal in A.S.SR.No. 4305 of 2020 on



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the file of Subordinate Judge, Thiruchengode.

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For petitioner : Mr.V.V.Sathya
For RR 2 & 3 : Mr.C.Kalaichelvan
For R1 : No Appearance

ORDER

This Civil Revision Petition has been filed seeking for a direction to the learned Subordinate Judge, Thiruchengode, to number the first appeal in AS.Sr.No. 4305 of 2020 on the file of Subordinate Judge, Thiruchengode.

2. Heard both sides and perused the materials placed on record.

3. On scrutinizing the documents, it reveals that the revision petitioner/plaintiff has filed the suit in O.S.No.41 of 2012 before the learned District Munsif, Tiruchengode, for declaration and permanent injunction. The defendants have contested the suit by filing written statement and denied all the averments made in the plaint. After perusing



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the records, the trial Court dismissed O.S.No.41 of 2012 by judgment and decree dated 09.12.2019. Challenging the same, the petitioner/plaintiff has preferred an appeal in A.S.Sr.No. 4305 of 2020 before the learned Subordinate Judge, Thiruchengode, and the same was returned on 06.11.2020 on the ground that the revision petitioner has not paid Court Fee properly on the basis of the market value under Section 25(b) of Tamil Nadu Court Fees and Suit Valuation Act. Aggrieved by the said order, the petitioner has filed this Civil Revision Petition.

4. Originally, the revision petitioner/plaintiff has filed the suit for declaration declaring the plaintiff's title to the suit property and for permanent injunction against the defendants, preventing the defendants and their staff, agent and representatives from in any manner interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule properties. After framing of issues, PW1 to PW3 were examined and Ex.A1 to Ex.A11 were also marked on the side of the plaintiff and Ex.X1 and Ex.X2 have also been marked. On the side of the defendants, one Mr.Rajendran examined as DW1 and Ex.B1 to Ex.B13 have also been marked.



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5. On a perusal of the records, it is seen that the defendant in his written statement has raised a defence that the suit is hit by res-judicata. The plaintiff himself has admitted that as per the Land Acquisition Act, the suit property has been acquired by the defendants and the compensation was not received by the plaintiff. The defendants have been given compensation and award was passed in the name of the wrong persons. Therefore, he has filed WP.No.21563/2008 under Section 48-B of the Land Acquisition Act and to re-convey the dry lands and to prove the same, Ex.B2 which has been marked as on the side of the defendant. On a perusal of the same, it is seen that this Court has given a direction to consider the representation of the plaintiff within a period of 12 weeks and the said WP was disposed of on 02.09.2008. Further, the plaintiff has stated that as per the above said direction of this Court, the claim of the plaintiff was rejected by the defendant. Subsequently, he filed another writ petition in WP.No.25955 of 2008 challenging the public auction.

6. The plaintiff further stated that the State Government again rejected the plaintiff's request for re-conveyance of the acquired lands by its order dated 11.12.08. The plaintiff further stated that again he filed a



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writ petition in W.P.No.300 of 2009 before this Court, which was dismissed on 22.03.2010. The plaintiff further stated that he has filed W.A.No.2017 of 2010 which was dismissed by the Division Bench of this Court with liberty to the plaintiff to approach the State Government under Section 16-B of the Land Acquisition Act, praying to exercise its powers to re-vest the acquired lands from the Housing Board, since the acquired lands were not yet utilized. The plaintiff further stated that without prejudice, the plaintiff sent a representation dated 08.09.2011 to the State Government and also reminders to pass fresh orders on the plaintiff's representation as per the orders of this Court. The plaintiff further stated that the Special Leave to Appeal (Civil) No. 32618 of 2011 filed by the plaintiff, which was also dismissed by the Hon'ble Supreme Court of India.

7. On considering both side's pleadings, the trial Court has come to the conclusion that the plaintiff has admitted that he himself has filed several writ petitions before this Court and he filed SLP.No. 3218 of 2011 before the Supreme Court which was marked as Ex.B13 and it was dismissed on 09.12.2011 itself. Thereafter, the plaintiff has filed this suit



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and hence, the defendants have raised an objection by stating that the suit is hit by res-judicata. The dispute in the suit property was already decided in the Superior Courts and for the same issue, again and again, the plaintiff has filed the suit i.e., for the same subject matter between the same parties directly and substantially in the suit. Therefore, the trial Court has rightly come to the conclusion that the suit is hit by res-judicata.

8. In such circumstances, when the suit was filed by the revision petitioner/plaintiff, appropriate Court Fee was not paid as per the Rules in force. Subsequently, the plaintiff has preferred an appeal before the learned Subordinate Judge, Thiruchengode, in AS.Sr.No.4305 of 2020 and the same was returned on the ground of deficit Court Fee. Therefore, the petitioner has to pay appropriate Court Fee before the trial Court based on the market value of the property. The petitioner has to follow the Rules in existence in respect of payment of Court Fee. Hence, this Court is not inclined to entertain and allow the above Revision. There is no illegality or irregularity in the order passed by the Court below. Hence, the Civil Revision Petition is liable to be dismissed.



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9. Accordingly, the Civil Revision Petition is dismissed. The Appellate Court is directed to return the original documents if any to the plaintiff pertaining to the suit property for filing the same before the trial Court. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is dismissed.

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Index : yes/no
Speaking order : Yes/No
Neutral Citation : Yes/No
msm

To

1. The Subordinate Judge, Thiruchengode.
2. The Section Officer, High Court of Madras.



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V.BHAVANI SUBBAROYAN, J.

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