



C.R.P. (PD) No.3120 of 2017
and C.M.P. No.14581 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2023

CORAM: JUSTICE N.SESHASAYEE

C.R.P. (PD) No.3120 of 2017 and C.M.P. No.14581 of 2017

R.Kala

... Petitioner

Vs.

1.S.Kala

2.M.Amudha

... Respondents

PRAYER: The Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 13/6/2017 made in I.A. No.172 of 2017 in O.S. No.212 of 2016 on the file of III Additional District Court, Salem.

For Petitioner : Mrs.Zeenath Begum

For Respondent : Mrs.S.Sasikala



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*C.R.P. (PD) No.3120 of 2017
and C.M.P. No.14581 of 2017*

ORDER

The suit herein is laid for a bare injunction and later, the plaintiffs vide order dated 10.1.2017 in I.A. No.513 of 2016 amended the plaint to include the relief of declaration of their title to the suit property, based on a sale deed dated 27.09.2012. The value of the property stated in the sale deed is Rs.11,35,000/-. The plaintiffs quoted this amount for valuing their relief for declaration of title under Section 25(b) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955.

2. Thereafter, the first defendant had taken out I.A. No.172 of 2017 under Section 12(2) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 alleging that the suit was not properly valued, since the plaintiffs have retained the sale consideration under the sale deed dated 27.09.2012 as the basis for valuation in 2017. Ordinarily the property value will increase but the plaintiffs have not chosen to value the relief for declaration as on 10.01.2017. The trial court however rejected her application, challenging which the first defendant is before this court with this civil revision petition.



C.R.P. (PD) No.3120 of 2017
and C.M.P. No.14581 of 2017

3. Heard both sides and perused the materials available on record.

4. Since the first defendant has raised the issue of valuation, the burden is on her to provide some materials for the court to ascertain the merit of her contention of under valuation or improper valuation. Besides filing an application, the first defendant has done precious little to assist the court in deciding the issue. Since the issue involves revenue to the State, this court chooses to set aside the order of the learned III Additional District Judge, Salem dated 13/6/2017 made in I.A. No.172 of 2017 in O.S. No.212 of 2016 and remand the matter back to the trial court, granting the defendants an opportunity to produce any material regarding the value of the property as on, or around 10.01.2017.

5. Accordingly, the civil revision petition is allowed. The order of the learned III Additional District Judge, Salem dated 13/6/2017 made in I.A. No.172 of 2017 in O.S. No.212 of 2016, is set aside. Consequently, the CMP is closed. The matter is remanded back to the trial court, and the first defendant is granted an opportunity to produce any material regarding the value of the property as on or after 10.01.2017.



C.R.P. (PD) No.3120 of 2017
and C.M.P. No.14581 of 2017

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6. This court is informed that the suit is posted before the trial court on 21.03.2023 and the first defendant is required to file whatever material she has on that date and at any rate not later than 28.03.2023. If no material is produced within the time herein stipulated, the said issue on valuation of the suit will only be raised as an issue for trial and cannot be decided interrimly.

14.03.2023

Asr

To
The III Additional District Judge, Salem

Note to office:

Issue order copy today



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C.R.P. (PD) No.3120 of 2017
and C.M.P. No.14581 of 2017

N.SESHASAYEE, J.,

Asr

C.R.P. (PD) No.3120 of 2017 and
C.M.P. No.14581 of 2017

14.03.2023