



C.R.P(MD)No.962 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: **09.08.2023**

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P(MD)No.962 of 2019

and

C.M.P(MD)No.5422 of 2019

1.Natarajan

2.S.Aayirathan

3.S.Mani

4.S.Krishnan

5.S.Sundar

... Petitioners/Petitioners/
Defendants 1, 3 to 6

Vs.

1.S.Paramasivan

...1st Respondent/
1st Respondent/Plaintiff

2.S.Ramaiah

...2nd Respondent/
2nd Respondent/
2nd Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 26.11.2018 passed in I.A.No.398 of 2018 in O.S.No.75 of 2015 on the file of the learned Principal District Munsif, Tirunelveli.



WEB COPY



C.R.P(MD)No.962 of 2019

For Petitioners : Mr.M.P.Senthil

For Respondents : Mr.M.Sankar

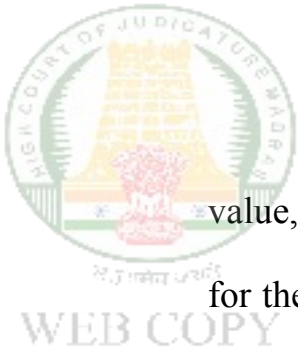
ORDER

This civil revision petition has been filed against the order passed by the learned Principal District Munsif, Tirunelveli in I.A.No.398 of 2018 in O.S.No.75 of 2015, dated 26.11.2018.

2. The petitioners herein are the petitioners/defendants 1, 3 to 6, the first respondent herein is the first respondent/plaintiff and the second respondent is the second respondent/second defendant before the Court below.

3. For the sake of convenience, the parties will be referred as per the litigative status before the Trial Court.

4. The learned counsel for the petitioner submits that the first respondent/plaintiff has filed a suit for declaration and injunction. The learned counsel for the petitioner submits that the suit property is a house site and has market value of more than Rs.1,00,00,000/- (Rupees one Crore only). He would further submit that contrary to the actual market



C.R.P(MD)No.962 of 2019

value, the respondents have under valued the suit. The learned counsel for the petitioners would submit that even at the time, when the evidence was let in, the respondents himself have marked their documents, which shows the higher market value. Therefore, on the ground of undervaluation, prayed the suit to be rejected.

5. The learned counsel for the respondents would submit that the argument of the learned counsel for the petitioners cannot be entertained as the same is beyond the scope of Order 7 Rule 11 of C.P.C.

6. I have given my anxious consideration to either side submissions.

7. It is a well settled principle of law that, whenever an application filed under Order 7 Rule 11 of C.P.C., it is incumbent on the part of the Court to go by the plaint pleadings, without being influenced by any of the pleadings, documents beyond the plaint pleading and plaint documents. If we go by the plaint pleadings, the first respondent/plaintiff has referred in his plaint that the suit schedule property is a ryotwari land. It is pertinent to mention here that the suit is of the year 2015, and admittedly filed prior to the amendment of the Court Fees Act. For ready



reference, this Court is inclined to extract Section 7 of the Court Fees Act, which exist prior to the Act 6 of 2017.

"7. Determination of market value

(1) Save as otherwise provided, where the fee payable under this Act depends on the market value of any property, such value shall be determined as on the date of presentation of the plaint.

(2) The market value of land in suits falling under sections 25(a), 25(b), 27(a), 29, 30, 37 (1), 37 (3), 38,45 or 48 shall be deemed to be --

(a) where the land is ryotwariland-thirty times the survey assessment on the land:

Provided that, where the landforms part of a survey field and is not separately assessed to revenue, the value of such part shall be deemed to be thirty times such proportion of the survey assessment as the part bears to the entire survey field.

(b) where the land is situated in an estate as defined in subsection (2) of section 3 of the Tamil Nadu Estates Land Act, 1908 (Tamil Nadu Act I of 1908), not being a land of the description mentioned in sub-clause (g) and such estate has been taken over by the Government under the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Tamil Nadu Act XXVI of 1948)-thirty times the land revenue payable on the land under section 23 of that Act; but if a ryotwari settlement has since been effected in pursuance of section 22 of that Act, in respect of such land, thirty times the assessment as so fixed;

(c) where the land is situated in an estate which became an estate under the Tamil Nadu Estates Land (Third Amendment) Act, 1936 (Tamil Nadu Act XVIII of 1936)-thirty times the rent payable for the land fixed under the Tamil Nadu Estates Land (Reduction of Rent) Act, 1947 (Tamil Nadu Act XXX of 1947);



WEB COPY



C.R.P(MD)No.962 of 2019

(d) where the land is an 'estate' as defined in the Tamil Nadu Estates Land Act, 1908 (Tamil Nadu Act I of 1908) --

(i) where separate peishkush is recorded in the Collector's register as payable for the estate-thirty times such peishkush;

(ii) in any other case-thirty times the annual melvaram realizable from the estate;

(e) where the land is a minor inam held under inam title deed-thirty times the assessment as noted in the village 'B' Register;

(f) where the land is in an inam village which, is not an 'estate' as defined in sub-section (2) of section 3 of the Tamil Nadu Estates Land Act, 1908 (Tamil Nadu Act I of 1908) - thirty times the rent payable in respect of it;

(g) where the land is a house-site whether assessed to full revenue or not, poramboke land, or is land not falling within the foregoing description-its market value."

8. In Section 7 (2) of the Court Fees Act, the world market value of the ryotwari land has been defined and stated that in respect of the suit under Section 25 (a), the market value would be 30 times of the Survey assessment. Here, the suit property according to plaint is a ryotwari land. Therefore, this Court is of the firm view that, as per the plaint pleadings, the suit has been rightly valued. Therefore, such valuation cannot be challenged under Order 7 Rule 11 of C.P.C. Except the above ground, the petitioner did not put forth any of the ground in his affidavit filed under Order 7 Rule 11 of C.P.C. Therefore, the order of the Court below



C.R.P(MD)No.962 of 2019

is perfectly in order and even before this Court, no ground was made out by the petitioner for interfering with the order of the Court below.

9. However, the learned counsel for the petitioner seeks indulgence of this Court to direct the Court below to frame an issue in respect of the valuation of the suit. This Court is confident that the Court below would have framed an issue in respect of the valuation of the suit. If in any case not framed so far, the Court below is directed to frame an additional issue in respect of the valuation of the suit.

10. In the result, this Civil Revision Petition stands **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

09.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
sn

To

1.The learned Principal District Munsif,
Tirunelveli.

2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P(MD)No.962 of 2019

C.KUMARAPPAN,J.

SN

C.R.P(MD)No.962 of 2019

09.08.2023