



C.R.P PD(MD) No.2020 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 10.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

C.R.P(MD)No.2020 of 2022

Nagajothi

... Petitioner

Vs

1.M.Ramuthai
2.M.Suriya
3.Sundareshan
4.Parvatharaj
5.S.Ramkumar
6.K.Aathilingam
7.S.Lakshmanakumar

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order of return dated 07.09.2022 by the Principal District Judge, Theni in unnumbered filing No.OS/10847/2022 CNR No.TNTH010047702022, on the file of the Principal District Judge, Theni and direct the learned Judge to take the suit on file.

For Petitioner : Mr.D.Malaichamy
For Respondents : No appearance



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ORDER

This Civil Revision Petition is filed as against the order of return dated 07.09.2022 by the learned Principal District Judge, Theni in unnumbered filing No.OS/10847/2022 CNR No. TNTH010047702022, dated 07.09.2022.

2.The learned counsel appearing for the petitioner submits that the petitioner/plaintiff has filed the above suit before the Principal District Court, Theni as against the respondents herein, for the relief of partition for her share in the joint family property and also for permanent injunction. According to the learned counsel for the petitioner, the value of suit property is Rs.17,62,700/-. The value of plaintiff's $\frac{1}{4}$ share is Rs. 4,49,475/-. The court fee was paid under Section 37 (2) of Tamil Nadu Court Fee and Suit Valuation Act, 1955 for Rs.5,000/-. The learned District Judge, Theni returned the plaint for certain defects including a query of jurisdiction as per the share value of the property on 24.08.2022



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and the same was re-presented by the plaintiff on 30.08.2022 after compliance of the defects. With regard to the jurisdiction, the plaintiff has stated that as per Section 37(2) of Tamil Nadu Court Fees and Suit Valuation Act, the value of the plaintiff's share or market value of the suit property has no relevance and payment of court fee alone has to be considered. In order to substantiate his contention, the learned counsel has relied upon the citations 2013 (2) CTC 342 and 1995 MLJ NOC 30. Thereafter, on 07.09.2022, the plaint was once again returned with the following endorsement:-

"To state how this Court has got pecuniary jurisdiction of share value. As per Section 12 of the Tamil Nadu Civil Court Laws to try a suit to the value of Rs.10,00,000/- is having jurisdiction of Sub Court. Hence, to be presented before the appropriate Court. Judgment relied on 2013 (2) CTC 288."

Aggrieved over the same, the present Civil Revision Petition is filed.



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3. The learned counsel appearing for petitioner projected that as per the amended act of Tamil Nadu Court Fees and Suit Valuation Act, the total market value of suit property alone has to be reckoned for the purpose of deciding the court fees and as per section 53 of Tamil Nadu Court Fees and Suit Valuation Act, where the fee payable is at a fixed rate the value for the purpose of determining the jurisdiction of courts shall be the market value of the suit property. Therefore, the Court has erroneously returned the papers.

4. The jurisdiction of District Judge and Subordinate Judge is defined under Section 12 of the Tamil Nadu Civil Courts Act, 1873 as follows: -

12. Jurisdiction of District Judge or Subordinate Judge in original suits.-[The jurisdiction of a District Judge extends, subject to the rules contained in the Code of Civil Procedure, to all original suits and proceedings of a civil nature, of which the amount of value of the subject matter exceeds five lakh rupees. The jurisdiction of a Subordinate Judge extends,



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subject to the rules contained in the Code of Civil Procedure, to all like original suits and proceedings, of which the amount or value of the subject-matter exceeds one lakh rupees, but does not exceed five lakh rupees.]

It is clear from Section 12 of the Tamil Nadu Civil Courts Act, 1873 that only suits exceeding the value of Rs.5 lakhs can be admitted under the District Judge and suits under the value of Rs.5 lakhs has to be admitted by the Subordinate Judge. Here, the plaintiff's share is only Rs.4,40,675/- which comes only under the jurisdiction of the Subordinate Court.

5. This Court in ***G. Lokanayaki v. Venkatraj, 2013 (2) CTC 288***, has held that,

*“7. As rightly contended by the learned Counsel for the Petitioner, the Sub-Court has jurisdiction as per Section 12 of Tamil Nadu Civil Court Laws, to try a Suit to the value of Rs. 10,00,000/-. **The mistake committed by the District Court is that the District Court has taken the entire property value to decide the pecuniary jurisdiction. It is not correct.** The*



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Plaintiff has claimed only Rs. 1,76,947/- as her share in the joint family property. Hence, the Suit value is Rs. 1,76,947/- as per Section 37(1) of the Tamil Nadu Court-Fees and Suit Valuation Act. Section 37(1) of the Tamil Nadu Court Fees and Suit Valuation Act is extracted in this regard. “

The entire value of suit property in the present case is Rs. 17,62,700/- and the plaintiff claims only 1/4th of suit property, which is Rs. 4,49,475/-. Thereby, relying on the above ratio, the entire property value cannot be taken into account to consider the pecuniary jurisdiction, but only the share of the plaintiff i.e Rs. 4,40,675/- alone has to be considered.

6. In view of the above, this Civil Revision Petition is dismissed. No costs. Registry is directed to return the original plaint to the petitioner after getting acknowledgment.

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Index : Yes / No.

Internet : Yes / No.

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To
The Principal District Court, Theni



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B.PUGALENDHI, J.

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