



CRP(MD).No.2200 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.03.2023**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CRP(MD).No. 2200 of 2022

and

C.M.P(MD).No.10238 of 2022

- 1.Mohamed Hanifa
- 2.SAiban Beevi
- 3.Mohamed Sharif

.. Petitioners/Petitioners/Defendants 1 to 3

Vs.

- 1.Habeeb Mohamed
- 2.The Sub-Registrar,
Sub-REgistrar Office,
Kulathur at Keeranur,
Kulathur Taluk,
Pudukkottai District.

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

- 3.The District Collector,
Pudukkottai District,
Pudukkottai.

- 4.Balasubramanian
- 5.Pitchai

... Respondents 2 to 5/Respondents 2 to
5/Defendants 4 to7

PRAYER : Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed in I.A.No.1 of 2022 in O.S.No.29 of 2015 dated 21.09.2022 on the file of the District Munsif Court, Keeranur, Pudukkottai District.



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For Petitioners : Mr.K.Ramiah
For Respondents : Mr.N.Balakrishnan (for R1)
Mr.S.Raja (for R4 & R5)
Mr.C.Baskaran
Government Advocate (R2 & R3)

ORDER

The present revision petition has been filed by the defendants 1 to 3 in a suit for declaration that cancellation deeds executed by the plaintiff is null and void.

2. A perusal of the plaint indicates that the plaintiff has executed a sale deed in favour of third parties. Thereafter, it is the allegation of the plaintiff that at the coercion and threat of the defendants 1 to 3, the plaintiff was forced to execute two cancellation deeds. Therefore, the plaintiff has prayed for a declaration that the cancellation deeds are null and void and for a further declaration that he is the absolute owner of the property.

3. The defendants 1 to 3 have filed I.A.No.1 of 2022 under Order 7 Rule 11 of the Code of Civil Procedure to reject the plaint on the



ground that the plaintiff being a party to the cancellation deeds ought not to have valued the suit under Section 25 (d) of the Tamil Nadu Court Fees and Suit Valuation Act, 1955 (hereinafter referred to as 'Act' for brevity), but he should have valued the property only under Section 40 of the Act and he should have paid an advalorem Court fee based upon the value of the property mentioned in the cancellation deeds. The trial Court after considering the submissions made on either side has arrived at a finding that the plaint cannot be rejected on the ground of undervaluation or insufficient payment the stamp duty. Unless an order has been passed as against the plaintiff calling upon him to properly value the property or calling upon him to pay the stamp duty and the plaintiff had failed to do so, the Court cannot reject the plaint as contemplated under Order 7 Rule 11 (b) and (c) of the Code of Civil Procedure. To put it in a summary, the trial Court has held that the application is pre-mature in nature. The said order is under challenge in the revision petition.

4. According to the learned counsel appearing for the revision petitioners, the plaintiff being a party to the said cancellation deeds is not entitled to value the same under Section 25(d) of the Act and hence, he



has not only undervalued it, but also paid insufficient Court fees.

Therefore, the trial Court ought to have rejected the plaint.

5. Per contra, the learned counsel appearing for the first respondent/plaintiff had contended that unless there is an order of Court calling upon the plaintiff to properly value the property and pay sufficient Court fee, considering the application under Order 7 Rule 11 of the Code of Civil Procedure does not arise.

6. I have carefully considered the submissions made on either side.

7. A perusal of the plaint prayer indicates that the plaintiff has challenged the cancellation deeds said to have been executed by him under the allegation of threat and coercion on the part of the defendants 1 to 3. Therefore, it is clear that the plaintiff is a party to the said document. The issue that now arises is whether the suit has to be valued under Section 25 (d) of the Act or under Section 40 of the Act. When the said dispute arises, the defendants ought to have filed an application under Section 12 of the Act, to determine the issue whether the Court fee paid under Section 25(d) is correct or not.



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8. Section 12(2) of the Act, empowers the Court to reject the plaint, if the Court had called upon the plaintiff to pay the proper Court fee and he had failed to do so. In the present case, no such application has been presented by the defendants 1 to 3 to determine the correct value and Court fee. Therefore, this Court is of the opinion that the allegation under Order 7 Rule 11 of the Code of Civil Procedure is premature in nature. I do not find any illegality or infirmity in the order passed by the trial Court in dismissing the said application. However, the defendants 1 to 3 are at liberty to file an application under Section 12 of the Act and if any such application is filed, the same shall be decided on merits and in accordance with law based upon Section 12(1) and 12(2) of the Act as expeditiously as possible and without being influenced by any one of the observation made by the trial Court in I.A.No.1 of 2022.

9. With the above observation, the Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

02.03.2023

NCC : Yes / No
Index : Yes / No



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R.VIJAYAKUMAR ,J.,

Rmk

To
The District Munsif, Keeranur, Pudukkottai District.

Order made in
CRP(MD).No.2200 of 2022

Dated:
02.03.2023