



C.R.P.(MD)No.1878 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 13.07.2023

Delivered on : 01.08.2023

CORAM:

THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

C.R.P.(MD)No.1878 of 2017

The Idol Arulmighu Kalayana

Venkataramanaswamy

Thanthonimalai , Karur

Rep. By its Executive Officer ... Petitioner / 1st Respondent / Plaintiff

Vs.

1.P.V.Srinivasan

2.P.V.Sridharan

3.P.W.Muralidharan

4.S.Venkata Namagiri

5.Minor M.Bharatwaj

rep. By his guardian-father

P.V.Muralidharan

... Respondents 1 to 5/ Petitioners/
Defendants 1 to 3, 5 & 8

6.B.Seethalakshmi

7.M.Namagiri Lakshmi

8.M.Vasantharajan

9.N.Muthu

10.C.Palanisamy



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11.P.Thangavel

12.M.P.Ammaiyappan

13.S.Ramesh

14.P.M.G.

...Respondents 6 to 14 / Respondents 2 to 10/

Defendants 4, 6, 7 & 9 to 14

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair order and decreetal order, dated 16.02.2016 in I.A.No.239 of 2012 in O.S.No.1 of 2012, on the file of the Principal District Judge, Karur.

For Petitioner : Mr.K.Guhan

For Respondents : Mr.K.Govindarajan for R1 to R7

: No appearance for R8 to R14

ORDER

The instant Civil Revision Petition has been filed against the order, dated 16.02.2016 in I.A.No.239 of 2012 in O.S.No.1 of 2012, on the file of the Principal District Judge, Karur.

2. The revision petitioner herein - The Idol, Arulmighu Kalayana Venkataramanaswamy is the plaintiff before the Court below. It appears that the plaintiff - The Idol Arulmighu Kalayana Venkataramanaswamy has



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filed suit for declaration and recovery of possession in respect of the suit properties and also for the relief of declaration, to declare the sale deed executed in favour of the defendants 9 to 13 as illegal, void and *non-est*. The plaintiff has valued the suit for Rs.1,00,04,000/- (Rupees One Crore and Four Thousand only) under Section 25 (a), 25(d), 27(c), and 44(1) of the Tamil Nadu Court Fee and Suit Valuation Act and presented the plaint before the District Court, Karur. The same was numbered as O.S.No.1 of 2012. It appears that on numbering of the suit, the defendants filed an application objecting inflated valuation and for return of plaint, to be presented before the proper Court, viz., District Munsif Court.

3. According to the petitioner herein, they valued the relief of declaration and possession on the basis of the market value under Section 30 of the Tamil Nadu Court Fee and Suit Valuation Act, 1955 (Herein after called “the Act”) and valued the suit for Rs.1,00,000,00/-, under Section 25(a) of the Act.

4. However, the respondent herein contended that as per Section 7 of the Act, the market value, which is referred to in Section 30 or in



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Section 25(a) of the Act, shall be 30 times of the Kist of the Ryotwari land.

Therefore, the value of the relief for declaration and possession would only be Rs.1.69 X 30 = Rs.50.70. Therefore, contended that the suit should have been filed before the District Munsif Court. The learned counsel for the respondent herein would further submit that, if the suit is dismissed, then there will be no issue to them. However, in the event of suit is decreed, then, it would put them in great difficulty as they are liable to pay huge Court fee of Rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand Only). Therefore he would submit that as per the correct valuation of the relief, the proper Court is the District Munsif Court. Hence, he prayed to return the plaint, District Munsif Court, Karur.

5. The revision petitioner / plaintiff has filed a counter denying all the allegations of the respondent herein, and would submit that they cannot have any grievance in the valuation of suit on market value payment of Court fee as long as the same is on higher side. The revision petitioner also would contend that the petition is speculative and bereft of material.



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6. The learned trial Judge, after considering either side, has concluded that the market value of the suit property should only have to be assessed based upon the Kist value as per Section 7 of the Act, and in that event, the pecuniary jurisdiction will come under the District Munsif Court, Karur. Hence, directed to represent the plaint before the appropriate Court with liberty to amend the plaint with regard to the valuation of the suit property, without filing separate amendment petition.

7. Aggrieved with the order of the Court below, the petitioner herein has come up with the instant revision petition.

8. In order to appreciate this case, more effectively and for ready reference, this Court deem it appropriate to extract the “Details of Valuation” mentioned in the plaint. The same are :

“ Details of Valuation

- | | |
|--|-------------------|
| a) Plaintiff values the relief of declaration and possession being market value under Sec.25(a) of the C.F. Act is | Rs.1,00,00,000-00 |
| Court Fees paid thereon under | Rs.100-00 |
| G.O.Ms.No.363, dated 09.04.2010 is | |



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b) Plaintiff values the relief of declaration under Sec.25(d) of the C.F. Act is	Rs.1,000-00
Court Fees paid thereon is	Rs.75-50
c) Plaintiff values the relief of declaration under Sec.25(d) of the C.F. Act is	Rs.1,000-00
Court Fees paid thereon is	Rs.75-50
d) Plaintiff values the relief of permanent injunction under Sec.27(c) of C.F Act is	Rs.1,000-00
Court Fees paid thereon is	Rs.75-50
e) Plaintiff values the relief of future Profits under Sec.44(1) of C.F.Act is	Rs.1,000/-

	Rs.402-00

	Rs.1,00,0400-00

9. Under Section 25 (a) of the Act, the following prayer is valued:-

It is therefore prayed that this Honourable Court may be pleased to pass a decree in favour of the plaintiff as follows:-

(a) For a decree for declaration, declaring that the plaintiff is the absolute owner of the suit prayer and consequently, recovery of possession directing the defendants to surrender possession of the suit property to the plaintiff Idol;



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10. The main argument of the learned counsel for the respondents 1 to 7 herein is that, in respect of prayer “(a)”, the valuation of property in Rs.1,00,00,000/- (Rupees One Crore only) is contrary to Section 7 of the Act. For easy understanding this Court deems it appropriate to extract Section 25(a) of the Act. The same is as follows:-

25. Suits for declaration.- In a suit for a declaratory decree or order, whether with or without consequential relief, not falling under section 26 -

*(a) where the prayer is for a declaration and for possession of the property to which the declaration relates, fee shall be **computed on the market value of the property** or on [rupees one thousand and five hundred], whichever is higher;*

11. According to Section 25 (a) of the Act , the plaint has to be valued based upon the market value of the suit property. It is the contention of the respondent herein, is that the ”market value” referred to in Section 25 (a) of the Act has been defined in Section 7 of the Act. It is pertinent to mention here that the Court Fees Act has met with an amendment through Act 6/2017. But, the instant suit is of the year 2012.



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Therefore, we are only concern about the pre-amendment of Section 7 of the Act. The same reads as follows:-

“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 ryotwari land, thirty times the survey assessment on the land:

Provided that, where the land forms 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.

Explanation.- Lands in the areas in which the Malabar Tenancy Act, 1929(Tamil Nadu Act XIV of 1930), is in force shall be regarded as ryotwari lands.”

12. As per the above provision, if any suit falling under Section 25(a), and that the suit property is a Ryotwari land, then 30 times of survey assessment is considered to be market value of the suit property. In this



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regard, the learned counsel for the respondent herein invited the attention of this Court in respect of Chitta-Ex.P1, which is not seriously in disputed by the petitioner herein. On perusal of the same, the kist value of the suit property is Rs.1.69. But, the contention of the plaintiff / petitioner herein is that they have valued the suit based upon the sale deed executed by the respondent herein. The said sale deed is appears to have been marked before the Court below. However, the suit property is Ryotwari land and has Kist value. Further, to substantiate such factum, the respondent herein has also submitted Ex.P1-Chitta.

13. It is also pertinent to mention here that, as per Section 15 of the Code of Civil Procedure, every suit should have been instituted before the Court of the lowest grade competent to try it. In this regard, it is useful to refer the judgment of the Hon'ble Supreme Court reported in **1987-3-SCC-705 (Nandita Bose V. Ratanlal Nahata)**. In the above judgment, the Hon'ble Supreme Court held that the Court has always jurisdiction to prevent the abuse of process of the law even against improper valuation of suit. The relevant portion of the reported Judgment, is as follows:-

“4. Under section 15 of the Code every plaint should be instituted in the court of the lowest grade



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*competent to try it and if the value of the suit was Rs. 42,000/- only it had to be filed in the City Civil Court of Calcutta and not on the Original Side of the High Court. The principles which regulate the pecuniary jurisdiction of civil courts are well-settled. Ordinarily, the valuation of a suit depends upon the reliefs claimed therein and the plaintiff's valuation in his plaint determines the Court in which it can be presented. **It is also true that the plaintiff cannot invoke the jurisdiction of a court by either grossly over valuing or grossly under-valuing a suit. The Court always has the jurisdiction to prevent the abuse of the process of law. Under rule 10 of order 7 of the Code the plaint can be returned at any stage of the suit for presentation to the court in which the suit should have been instituted.** The question for consideration in this case is whether in the present case the plaint has been grossly over valued with the object of bringing it within the jurisdiction of the High Court. When the suit is filed for the recovery of money, the amount claimed has to be included in determining the value of the suit. In the instant case the appellant has claimed a decree for Rs.78,000/- (at the rate of Rs.7,800/- per month) for the period between 1st February, 1985 and 30th November, 1985 on the footing that the respondent's possession was unauthorised or illegal and he was liable to pay mesne profits or damages. The question whether the appellant would be entitled to a decree*



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for mesne profits/damages at the rate of Rs.7,800/- per month or at any other rate after the termination of the tenancy is a matter which has to be decided in the suit. If ultimately it is found that the appellant is not entitled to get mesne profits or damages for the period subsequent to 1st February, 1985 and that she is only entitled to receive Rs. 1,400/- per month, the suit in respect of the claim over and above Rs.1,400/- per month, will have to be dismissed. But the question whether she was entitled to claim mesne profits or damages in respect of the period subsequent to 1st February, 1985 could not have been disposed of at a preliminary stage even before the trial had commenced. That question has to be decided at the conclusion of the trial along with other issues arising in the suit. Having regard to some of the decisions on which reliance is placed by the appellant in the course of the appeal we are of the view that the matter is not free from doubt. The claim for mesne profits/damages is neither palpably absurd nor imaginary. It needs judicial consideration. The acceptance of the view put forward by the respondent may lead to encouraging a tenant who has forfeited his right to the tenancy to carry on a dilatory litigation without compensating the landlord suitably for the loss suffered by him on account of the unreasonable deprivation of the possession of his premises over a long period until he is able to get possession of the premises through the Court. We cannot, therefore, state at



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this stage that the claim for mesne profits/damages had been made without good faith and with the sole object of instituting the said suit before the High court of Calcutta even though it had no jurisdiction to try it. We do not agree with the submission made on behalf of the respondent that the appellant had “dishonestly and intentionally inflated the value of the suit in order to invite the jurisdiction of a particular court which has no jurisdiction otherwise.” If mesne profits/damages are found to be payable then the claim made at the rate of Rs.7,800/- per month for a premises of the nature in question which is situated in Calcutta does not appear to be fanciful having regard to the prevailing situation. We however express no opinion on the actual amount that may be awarded as mesne profits/damages in the event of the liability to pay it being established.”

14. As per the above judgment, the parties to the suit cannot invoke jurisdiction of a particular Court either grossly overvaluing or grossly undervaluing the suit. Here, there is no serious dispute as to the nature of the land being Royatwari. If that being so, then, automatically Section 7 of the Act will come into operation. In such an event, the market value under Section 25(a) of the Act, is only Rs.50.70 and would only come



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under the pecuniary jurisdiction of District Munsif Court.
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15. At this juncture, the learned counsel for the respondent herein would submit that, notwithstanding any higher valuation of the suit contrary to Section 7 of the Act, the plaintiff / petitioner herein will pay fixed court fee of Rs.100/-, based upon the G.O.(Ms.)No.363, Home (Courts-VIA) Department, dated 09.04.2010. Whereas, in the event of filing an appeal, the burden of the respondent herein will become unbearable as they have to pay Court fee, according to the valuation before the trial Court, are the same would come to Rs.7,50,000/-. The very arguments of the learned counsel for the respondent has rational and sounds positively. Hence, this Court holds that the valuation of the petitioner herein on the basis of actual market value ignoring Section 7 of the Act is contrary to the spirit of the legislation.

16. Therefore, this Court is of the firm opinion that the order passed by the learned trial Judge is well merited and does not require any interference from this Court.



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17. In the result, the instant Civil Revision Petition is **dismissed**.

There shall be no order as to cost.

01.08.2023

NCC : Yes/No

Index : Yes/No

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To

- 1.The Principal District Judge,
Karur.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN.,J.

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Pre-delivery Order made in
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