



C.R.P.(MD)No.2290 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(MD)No.2290 of 2019

and

C.M.P(MD)No.12021 of 2019

1.Mumtaj Begum
2.Subaidha Bivi
3.najma Begum
4.Vahitha Begum
5.Fathima Begum
6.Malliga Begum
7.Ayesha Begum
8.Jamal Mohammed
9.Farooq Mohammed

... Petitioners/Petitioners/
Defendants

-vs-

Idol of Sri Muthu Vinayagar Temple
Subsequently renamed Idol of
Sri Anbu Vinayagar Temple at Thuvarankurichi,
by its Executive Officer,
Attached Sri Nallandavar Temple,
Manaparai. Ahamed Jalal

... Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Civil Procedure Code, to allow the Civil Revision Petition and set aside the fair order and decretal order dated 14.10.2019 made in I.A.No.1 of 2019 in



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O.S.No.176 of 2018, on the file of the Additional District Munsif Court, Manapparai.

For Petitioners : Mr.A.Arumugam

For Respondent : Mr.AN.Ramanathan

ORDER

The present Civil Revision Petition has been filed by the petitioner under Article 227 of the Constitution of India, against the fair and decreetal order dated 14.10.2019 made in I.A.No.1 of 2019 in O.S.No.176 of 2018, on the file of the Additional District Munsif Court, Manapparai.

2. The petitioners herein are the defendants 5 to 13 and the respondent is the plaintiff before the court below.

3. The brief facts which give rise to the filing of the instant civil revision petition is that, at the time of the filing of the suit, the respondent/plaintiff herein has valued the suit for a sum of Rs.80,000/- and has instituted the same before the District Munsif Court, Manapparai. However, the petitioners and other defendants objected such valuation and would submit that the total extent of the property is measuring 4.13 acres and



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as per the guideline value per sq.ft., is Rs.100/-. If that being the case, the property is valued more than Rs.1 crore and 18 lakhs. Therefore, the suit should have been filed before the District Court which is having the pecuniary jurisdiction. The petitioners filed an application under Order XIV Rule 2(2) of the Civil Procedure Code and Section 12 of the Tamil Nadu Court Fee and Suit Valuations Act, 1955 so as to decide the question of court fee payable by the plaintiff in the suit as a pecuniary issue. However, the court below has dismissed the application by holding that the very valuation of the suit is mixed question of fact and law and could be decided only at the time of trial. Aggrieved with the said order, the petitioners/defendants 5 to 13 are before this Court.

4. The learned counsel for the petitioners would vehemently submit that the suit property is an extent of 4.13 acres which is situated in S.F.No.207 of Thuvrankurichi Village. The learned counsel for the petitioners would also submit that as per the guideline value per sq.ft., is cost around Rs.100/- and would also further submits that as per Section 7 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 market value is the guideline value maintained by the Registrar under Section 47-AA of the Indian Stamp Act, 1899. If that



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being the case, it is beyond the pecuniary jurisdiction of the District Munsif Court. Hence, prayed to return the plaint with a direction to the plaintiff to approach the District Court, on paying the proper Court Fee.

5. The respondent has objected the said contention and would submit that the valuation of the suit is mixed question of law and fact, therefore, the order of the Court below does not require any interference.

6. This Court has given anxious consideration to the submissions of the learned counsel on either side.

7. On a perusal of the plaint, the same shows that the suit has been valued under Section 25(d) and under Section 28 of the Tamil Nadu Court Fees and Suit Valuation Act. They have stated that the market value of the property is Rs.80,000/-. It is pertinent to mention here that under Section 7 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955, the more market value has been defined. For ready reference, Section 7 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 is extracted hereunder:-



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

8. As per the above section, “market-value” means the market-value fixed under Section 47-AA of the Indian Stamp Act, 1899. The value under Section 47-AA of the Indian Stamp Act has been submitted by the petitioners/defendants before the court below as well as before this Court.

9. According to the said guideline value, the property value is Rs.100/- per sq.ft. If that being the case, as rightly contended by the learned counsel for the petitioners/defendants that the suit should have been valued for more than Rs.1 crore and 18 lakhs as mentioned in the petition. If that being the case, naturally, the Court, in which the suit has been filed, has no jurisdiction to entertain the same and the District Court alone has a pecuniary jurisdiction.

10. According to the Court fees Act, the market value of the suit property could be decided based upon guideline value. If that being the case, the finding of the court below that valuation of the suit is mixed question of fact and law cannot be a correct reasoning in this suit. Therefore the finding



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of the court below is perverse. Therefore, this Court is inclined to interfere with the finding of the court below, and this Civil Revision Petition is allowed directing the court below to return the plaint to the plaintiff. On return of the plaint, the plaintiff is directed to present the same before the proper court having pecuniary jurisdiction, within a period of six weeks from the date of receipt of a copy of the plaint, on payment of proper court fee in accordance with law.

11. The learned counsel for the respondent/plaintiff would submit that as per the Government Order, they are only liable to pay a fixed court fee. However, this Court is not expressing any opinion leaving the same open to the Court below to consider the submission made by the plaintiff according to law.

12. In the result, the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

23.08.2023

NCC : Yes/No
Index : Yes / No



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Internet : Yes / No
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To
The Additional District Munsif Court,
Manapparai.



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C.KUMARAPPAN,J.

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