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C.R.P.No.1218 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.1218 of 2024

and

C.M.P. No.6371 of 2024

Appandai Raj S/o. Samuthiravijayan
S/o. Samuthiravijayan

... Petitioner

Vs.

N. Aishwarya D/o. C. Nemichandran

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to fair and decreetal order dated 20.12.2023 passed in I.A. No.5 of 2022 in O.S. No.300 of 2021 on the file of Additional District Munsif, Alandur.

For Petitioner : Mr.R. Bharathi Kumar

For Respondent : Mr. E. Prabu for
M/s. S. Conscious Ilango



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ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the respondent for rejection of Plaint on condition that the petitioner shall value the suit claim under Section 27(a) and 40 of the Tamil Nadu Court Fees and Suits Valuation Act.

2. The petitioner herein filed a Suit for permanent injunction restraining the 1st respondent from alienating or encumbering the Suit property. He also sought for declaration that the registered Settlement Deed dated 20.03.2020 was null and void. The Suit has been valued by the petitioner under Section 27(c) and 25(d) of the Tamil Nadu Court Fee Act. While dismissing the petition filed for rejection of plaint, the Trial Court directed the petitioner to value the Suit claim under Section 27(a) and 40 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955. Aggrieved by the said direction, the petitioner / plaintiff is before this Court.

3. The learned counsel appearing for the petitioner submits that the



petitioner correctly valued the injunction prayer under Section 27(c) of the Tamil Nadu Court Fees Act and the direction issued by the Trial Court to value the Suit claim under Section 27(a) is not correct on the face of it. The learned counsel further submits that the document sought to be declared as null and void is a Settlement deed not supported by any consideration. Therefore, the petitioner valued it under Section 25(d) of the Tamil Nadu Court Fees Act.

4. The learned counsel appearing for the respondents submits that as of today, the valuation adopted by the petitioner with regard to injunction prayer is correct. On the other hand, if any issue is framed with regard to the Title, then the petitioner may have to value the Suit under Section 27(a) of the Tamil Nadu Court Fees Act. The learned counsel further submits that the petitioner is a party to the Settlement Deed dated 20.03.2020 and the property covered under Settlement Deed was valued at Rs.25 lakhs. Therefore, the petitioner is bound to pay Court fee on the face value of the document as per Section 40 of Tamil Nadu Court Fees Act.

5. As far as the prayer for bare injunction is concerned, the petitioner



has correctly valued it under Section 27(c) of the Tamil Nadu Court Fees Act.

As rightly pointed out by the learned counsel appearing for the respondent that only in case framing of any issue with regard to the Title dispute, the question of valuing it under Section 25(a) would arise. As on today, as per the averments found in the plaint, the Suit is filed praying for injunction, and the said relief is valued under Section 27(c) of the Tamil Nadu Court Fees Act. In the absence of any issue with regard to the Title, the direction issued by the Trial Court to value the prayer for injunction under Section 27(a) is not sustainable and the same is liable to be set aside.

6. As far as the second prayer regarding declaration of Settlement Deed dated 20.03.2020 as null and void is concerned, the petitioner is a party to the document and the said document is valued at Rs.25 lakhs in the document itself. It is settled law that if the party to the document wants to avoid it by seeking a declaration, the same shall be valued under Section 40 of the Tamil Nadu Court Fees Act. The Trial Court rightly came to the conclusion that the valuation shall be under Section 40 of the Tamil Nadu Court Fees Act and directed the petitioner to value the same accordingly. I do not find any error in the order passed by the Trial Court with regard to the direction to value the 2nd



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prayer in the plaint under Section 40 of the Tamil Nadu Court Fees Act.

7. In view of the above discussion, the Civil Revision Petition is partly allowed.

7(a) Accordingly, the direction to the respondent / plaintiff to value the relief (ii) sought for in O.S. No.300 of 2021 under Section 40 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 stands confirmed. The said direction shall be complied within a period **four (4) weeks** from the date of receipt of copy of this order.

7(b) The direction to the respondent / plaintiff to value the relief (i) sought for in O.S. No.300 of 2021 under Section 27(a) of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 is set aside. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
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To

The Additional District Munsif, Alandur.

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S.SOUNTHAR, J.

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