



C.R.P.No.827 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.827 of 2023
and C.M.P.No.6299 of 2023

1.Anjinappa
2.Anantha Kumar
3.Dhanraj

... Petitioners

-Vs-

Mudamma (Died)

1.Nagarathnamma
2.Munilakshamma
3.Muninarasappa
4.Narasimmamurthy
5.Baghyamma
6.Munilakshmi

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the fair and decreetal order dated 19.01.2023 in I.A.No.5 of 2021 in O.S.No.459 of 2021 on the file of the Subordinate Judge, Denkanikottai.

For Petitioners : Mr.N.R.Sai Gautham
For Respondents : Mr.Ramkumar Natarajan
for Mr.S.Adarsh

ORDER

This Civil Revision Petition arises against the order passed by the learned Subordinate Judge at Denkanikottai in I.A.No.5 of 2021 in O.S.No.459 of 2021 dated 19.01.2023.



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For the sake of convenience, the parties will be referred to as per their ranking in the suit.

2. O.S.No.459 of 2021 was originally presented as O.S.No.85 of 2016 before the learned Subordinate Judge at Hosur. Subsequently, due to the formation of Subordinate Court at Denkanikottai, the suit stood transferred to the file of that Court and renumbered as O.S.No.459 of 2021.

3. The plaintiffs had valued the suit at Rs.9,21,600/-. Claiming 1/6th share, the plaintiff paid fixed court fee of Rs.750.50/-. The plaintiffs also claimed that they are in joint possession of the property along with the defendants.

4. On service of summons, the defendants entered appearance and filed a written statement, wherein they specifically pleaded that the value of the property is around Rs.55,00,000/- and therefore, the Court has no pecuniary jurisdiction to try the same.

5. After the matter was pending for about five years, an application seems to have been taken out by the defendants in I.A.No.5 of 2021 seeking the Court to frame preliminary issue with regard to the maintainability of the suit on the ground of pecuniary jurisdiction and improper court fees. This application was received as I.A.No.5 of 2021.



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6. The plaintiffs filed a detailed counter in which, apart from denying the claim that the valuation is improper, they pleaded that the application is not supported by any material evidence. They would also plead that the entire idea of the defendants is to drag on the matter by preventing the matter from going for trial.

7. The learned trial Judge, interpreting Order XIV Rule 2 came to the conclusion that, where the matters require trial or evidence, it cannot be considered as preliminary issue under Order XIV Rule 2 and dismissed the said petition, against which the present revision has been filed.

8. Heard Mr.N.R.Sai Gautham for the petitioners and Mr.Ramkumar Natarajan for the respondents.

9. Mr.Sai Gautham, on the basis of the documents that had been filed before the trial Court in the form of guideline value, would argue that the value of the property is way above the value that has been given by the plaintiffs. He would urge that if the valuation submitted by the defendants is taken into consideration, the learned Subordinate Judge would not have pecuniary jurisdiction to try the suit and the suit would have to stand transferred to the file of the jurisdictional District Court. He would further rely upon Section 12(2) of the Tamil Nadu Court Fees and Suit Valuation Act (hereinafter referred to as 'the Act') and would state that, by



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virtue of this provision, he is entitled to file an application calling upon the Court to fix the preliminary issue on Court fees before entering into the merits of the case, as he has specifically pleaded gross undervaluation committed by the plaintiffs in the written statement itself.

10. Per contra, Mr.Ramkumar Natarajan would submit that this application itself is not maintainable. The suit had been filed in the year 2016 and he would point out from his counter that the entire idea of the defendants is only to drag on the matter as long as possible and prevent the bundle seeing the light of trial.

11. For me to apply Section 12(2) of the Act, the court fee paid itself must have been insufficient. This is not a case of improper payment of court fee. But, the case of the defendants is that it is an improper valuation of the suit. In a suit for partition, where fixed court fee is paid, the question of framing an issue under Section 12(2) of the Act does not arise. This is because, whatever be the value of the property, the Court fee that is going to be paid is fixed. Therefore, the argument of Mr.N.R.Sai Gautham does not stand a moment's scrutiny when the purpose for which Section 12(2) has been enacted is analysed.

12. Turning to the other provision under Order XIV Rule 2 of Civil Procedure Code, the Court no doubt has the power to frame necessary preliminary issue. A preliminary issue is one which is purely based on the question of law. If it is a



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mixed question of law and fact, then it cannot be a question of law, as it requires some evidence to be recorded for the Court to decide the matter. The evidence that has been produced by Mr.Sai Gautham's clients before the Trial Court is only the guideline value.

13. Though it has been oft repeated, yet, for the purpose of this case, I am constrained to repeat, guideline value does not mean it is the market value of the property. Guideline value is only a direction given by the State Government to permit the Registrars to collect amount towards payment of stamp duty and registration charges. Guideline value by itself does not help the Court in order to come to a conclusion as regards the market value of the property.

14. With this being kept aside, there is no evidence that has been produced by defendants 5, 6 and 7 to substantiate their case that the property is grossly undervalued. Apart from that, Order XIV Rule (2) is not the appropriate provision to move such an application. The solution can be only found by permitting the defendants to let in evidence at the time of trial to substantiate their plea and by framing an issue as regards the pecuniary jurisdiction of the Court at that time and answered along with the main judgment. The trial Judge is permitted to frame an issue as regards the market value of the property and try the same along with the other issues available in the suit. Both parties are at liberty to let in evidence to substantiate their respective cases.



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V. LAKSHMINARAYANAN, J.

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15. With the above observations, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

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Index : Yes/No

Neutral Citation : Yes/No

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To

The Subordinate Judge
Denkanikottai.

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