



WEB COPY



C.R.P. No. 2875 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

C.R.P. No. 2875 of 2018

G. Sivakumar (Died)

- 1.Usha Rani
- 2.S. Shanthalakshmi
- 3.S. Vishnupriya
- 4.S. Lingesh Kumar

(Petitioners 1 to 5 are brought on record as Lrs of the deceased sole petitioner viz., G.Sivakumar vide order dated 12.03.2024)

... Petitioners

Vs.

- 1.R.K. Jayaraman
- 2.Senthil
- 3.Kavitha
- 4.Lakshmi

... Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 15.03.2017 in O.S.No.51 of 2016 on the file of the learned Sub Judge, to value to suit under Section 40 of the Act and consequently, direct the learned Judge to accept the Court fee paid under Section 25(d) of the Act and to proceed with the suit in accordance with law and thus render justice.



C.R.P. No. 2875 of 2018

For Petitioner : Ms. S. Sasikala

WEB COPY

ORDER

The Civil Revision Petition has been filed against the order dated 15.03.2017 in O.S.No.51 of 2016 on the file of the Subordinate Court, Ranipet.

2. The petitioner is the plaintiff in the suit. The suit filed for declaration of title of the suit properties in favour of the plaintiff and for permanent injunction and for costs. The suit valued for the relief of declaration at Rs.1,00,400/- and paid the Court fee under Section 25(b) of TNCF Act for the value i.e., Rs.50,200/- at Rs.3765.50 for the relief of permanent injunction valued at Rs.1,000/- under Section 27(c) of TNCF Act and paid Court fee of Rs.75.50.

3. The trial Court having gone through the several documents filed by the plaintiff along with the plaint, it is noticed that as per document No.5 which is the certified copy of the sale deed in respect of the suit properties



C.R.P. No. 2875 of 2018

dated 31.01.2005, the market value of the suit property as on 31.01.2005 is

Rs.6,27,000/-.

4. Considering the fact that the plaintiff valued the suit properties as on the date of filing of the suit i.e., on 16.03.2016, the value of the property shall be much high than the market value mentioned in the sale deed dated 31.01.2005 and returned the plaint. Check slip was issued and the petitioner submitted his objection. On consideration of the same, the trial Court is of the opinion that the plaintiff counsel has not answered the check slip and the two citations relied in the objection are no way connected to the subject matter of the check slip. Accordingly, the Court below decided that the suit property is to be tested so as to ascertain the value of the suit properties and closed the check slip by its order dated 15.03.2017. Aggrieved by the same, the present Civil Revision Petition is filed.

5. Learned counsel for the petitioner submits that the order of the learned Principal District Judge, Vellore to direct the assessment of the market value of the properties are totally wrong. The valuation of the



C.R.P. No. 2875 of 2018

property and Court fee are not purely question of law and it is a mixed question of fact and law and further when the petitioner has questioned the execution of the sale deed as not binding on him. As such, the Court fee payable is only under Section 25(d) of TNCF Act and not under Section 40 of the Act. Learned counsel further submits that the Court below failed to note that when the petitioner is not a party to the sale deed, he need not pay the Court fee under Section 40 of the Act and he is right to value and to pay Court fee under Section 25(d) of the Act. Accordingly, the learned counsel contends that the order of the lower Court to pay the Court fee under Section 40 of the Act is not correct and the same is liable to be set aside.

6. Having considered the submissions of the learned counsel and on careful perusal of the order of the trial Court dated 15.03.2017, as rightly pointed out by the trial Court that as per the document No.5, filed by the petitioner which is a certified copy of the sale deed in respect of the suit properties dated 31.01.2005, the market value is Rs.6,27,000/-. The suit is filed on 16.03.2016, as such, definitely the market value of the properties shall be much high by 16.03.2016.



C.R.P. No. 2875 of 2018

WEB COPY

7. In view of the said fact, this Court is of the considered opinion that there is no infirmity or illegality in the order passed by the Court below and no interference of the said order dated 15.03.2017 is warranted in this Civil Revision Petition.

8. Accordingly, the Civil Revision Petition is dismissed.

9. There shall be no order as to costs.

24.06.2024

Index : Yes / No

Neutral Citation : Yes / No

AT



WEB COPY



C.R.P. No. 2875 of 2018

BATTU DEVANAND, J.

AT

To

- 1.The Subordinate Court, Ranipet.
- 2.The Principal District Judge, Vellore.

C.R.P. No. 2875 of 2018

24.06.2024