



C.R.P.No.2630 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.2630 of 2024 and
C.M.P.No.13816 of 2024

N.Venkataraman

... Petitioner

Vs.

1.Shanthakumari
2.S.Balasekaran
3.M.Muthaiyah
4.The Sub-Registrar,
Kundrathur Sub-Registrar's Office,
Kundrathur, Chennai-600069.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order/adjudication dated 01/07/2024 passed by the learned Subordinate Judge, Poonamallee in O.S.No.226/2014.

For Petitioner	:	Mr.Manoj Sreevalsan
For R4	:	Dr.S.Suriya, Additional Government Pleader



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ORDER

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The petitioner/plaintiff filed this civil revision petition to set aside the order/adjudication, dated 01.07.2024 passed by the learned Subordinate Judge, Poonamallee in O.S.No.226 of 2014.

2.The learned counsel for the petitioner submitted that the suit in O.S.No.226 of 2014 is filed seeking permanent injunction restraining the respondents/defendants from interfering with the petitioner's peaceful possession and enjoyment of the suit property. The petitioner is the absolute owner of 'A' Schedule property by virtue of sale deed, dated 29.10.1982 in document No.3621 of 1982 purchased from one Chandran through his power agent A.Mohideen. The 'B' schedule property was conveyed by one Chandran through power agent to the petitioner's brother Raghuraman *vide* document No.2436 of 1983, dated 15.07.1983. The petitioner's brother Raghuraman executed settlement deed in favour of the petitioner on 26.06.2012 registered as document No.7996 of 2012. Thus, the petitioner/plaintiff is the absolute owner of 'A' and 'B' schedule properties. The respondents/defendants set exparte and they filed I.A.No.1



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of 2023 to set aside the exparte order. On 02.12.2023, the said Interlocutory Application dismissed and the case posted for judgment on 11.12.2023. On 11.12.2023, the learned Subordinate Judge, Poonamallee called upon the petitioner regarding valuation of suit and sought some clarification. The petitioner filed memo, dated 12.01.2024. On 01.02.2024, the learned Subordinate Judge, Poonamallee passed order on the memo directing the petitioner to value the suit on the market value as on the date of the plaint failing which the plaint shall be rejected under Order 7 Rule XI of CPC. Against which, the present civil revision petition filed.

3.He further submitted that the learned Subordinate Judge, Poonamallee erroneously held that the petitioner/plaintiff cannot exercise his discretion to provide notional value under Section 27(c) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955 and further the learned Judge failed to appreciate that as per Section 27(c) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955, it is the discretion of the plaintiff to value the suit as per his bonafide belief and discretion cannot be equated with Section 27(a) or 27(b) of the Tamil Nadu Court-Fees and Suits



Valuation Act, 1955. In support his submissions, the learned counsel for the petitioner relied on the decision of this Court in “***Congregation of Zion Lutheran Church Pranthanery vs. The India Evangelical Lutheran Church*** reported in ***2011-5-L.W. 166***” wherein it had held that the provision of the Act leaves no manner of doubt that the legislature has left it to the choice of the plaintiff, to assess the pecuniary value of the suit where the subject matter of suit is not capable of any market value. In this case, the suit property purchased in the year 1982 and 2012 and the suit filed in the year 2014. The petitioner/plaintiff valued the property under Section 27(c) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955 is proper. Hence, the petitioner/plaintiff has no discretion in valuing the suit with notional value, is not proper. Hence, he prays for setting aside the impugned order/adjudication, dated 01.02.2024.

4.Considering the submissions and perusal of the materials, it is seen that in this case, the respondents/defendants set exparte and the petitioner/plaintiff purchased two properties one in the year 1982 and another in the year 2012. The petitioner has not divided the property into



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plots and valued the same it has been left as and where condition though it

was purchased. In view of the same, the petitioner giving the value of the property as per the document is proper and he had only followed the Rule 27(c) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955.

5.In the light of the above decision, the impugned order/adjudication, dated 01.02.2024 in O.S.No.226 of 2014 passed by the learned Subordinate Judge, Poonamallee is set aside. The learned Subordinate Judge, Poonamallee is directed to dispose of the suit in O.S.No.226 of 2014 on merits and in accordance with law.

6.In the result, this civil revision petition stands allowed. Consequently, connected civil miscellaneous petition is closed. No costs.

22.07.2024

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

Index: Yes/No

Internet: Yes

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M.NIRMAL KUMAR, J.

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To

The Subordinate Judge,
Poonamallee.

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