



C.R.P.(PD).No.3140 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2024

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THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).No.3140 of 2024
and C.M.P.No.16755 of 2024

Chidambaram ... Petitioner/Petitioner/6th defendant

-Versus-

Nagendiran ... Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decreetal order dated 04.04.2024 passed in I.A.No.2 of 2023 in O.S.No.535 of 2012 on the file of the Principal District Munsif Court, Perambalur.

For the Petitioner : Mr.C.Muruganandam

ORDER

This Civil Revision Petition has been filed by the 6th defendant to the suit. The suit in O.S.No.535 of 2012 had been presented on the file of the Court of learned District Munsif at Perambalur, seeking for the relief that the sale deed executed by the 1st defendant in favour of the 2nd defendant as null and void and for further relief of permanent injunction, restraining the defendants 1 and 2



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from interfering peaceful possession of the plaintiff over the suit schedule mentioned property. The plaintiff also sought for a direction to the 3rd defendant to cancel the sale deed dated 14.12.2011 and all the consequent sale deeds made by the 2nd defendant inter se pending the suit. A direction was also sought against the Assistant Engineer (Operation & Maintenance), Tamil Nadu Electricity Board, Perambalur, to cancel the changes effected in the service connection to the suit property.

2. This suit has been pending from the year 2012. The 6th defendant purchased the suit property *pendente lite* in the year 2016. He took out an application under Order 7 Rule 11 of the CPC, to reject the plaint.

3. The primary ground on which the plaint was sought to be rejected was that the plaintiff valued the suit under Section 25 (a) of the [Tamil Nadu Court-Fees And Suits Valuation Act, 1965](#), (hereinafter referred to as 'the Act') whereas, he should have valued the same under Section 40 of the Act. The learned Trial Judge after receipt of the counter from the respondent/plaintiff dismissed the petition. Against which, the present Civil Revision Petition has been filed.



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4. Heard, Mr.C.Muruganandam, learned counsel for the Civil Revision

Petitioner.

5. Mr.C.Muruganandam, would submit that the value of the property is more than Rs.12 Lakhs and therefore, the learned District Munsif will not have jurisdiction. He would state that on the date of presentation of the suit, the value of the property was Rs.5,19,376/- and as on today, it is more than Rs.6 Lakhs and therefore, the notional value of Rs.1,000/- given by the plaintiff is highly irregular. He would state that the plaintiff has deliberately undervalued the suit, so as to bring it within the jurisdiction of the learned District Munsif. Therefore, he pleads that the revision to be admitted and an interim order be granted.

6. I have carefully considered the arguments of Mr.C.Muruganandam.

7. For the purpose of Court Fee and Jurisdiction, it is the averments made in the plaint alone that matters. The defense that has been taken by the defendants is not germane for the purpose of the case. A perusal of the plaint makes it clear that the 1st defendant had alienated the property in favour of the 2nd defendant and thereby denied a share to the plaintiff.



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8. According to the plaintiff, the property is ancestral in nature and over which his family has a share. If a suit has to be valued under Section 40 of the Act, the condition precedent is that the plaintiff should be a party to the suit or party to the decree or to the document, which he seeks for cancellation.

9. A casual glance at the plaint shows that the plaintiff is not a party to the document. When a person is not a party to the document, he can seek for declaration under Section 25 (d) of the Act and give it a notional value. That is what had exactly been done by the plaintiff in the present case. The relief of injunction has not been valued separately, since he has sought for the relief of injunction, consequential to the main relief. In so far as the relief, directing the Sub-Registrar, Perambalur and the Assistant Engineer (O & M), TNEB, Perambalur, are concerned, being the relief of injunction, the plaintiff is entitled to value the suit under Section 27 (c) of the Act. Paragraph No.17 of the plaint reveals that this method of valuation.

10. In so far as the submission of Mr.Muruganandam, that the suit value of the property is more than Rs.12 Lakhs and therefore, the Court will not have jurisdiction is concerned, as already stated Court Fee and Jurisdiction depends on the averments mentioned in the plaint. The plaint averments clearly state that



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the plaintiff is not a party to the document. If he is not a party to the document,

he is entitled to give a notional value in terms of the Court Fees Act.

Accordingly, the plaintiff has taken the notional value of Rs.1,000/- and has paid the appropriate Court Fee.

11. Apart from the above discussion on [Tamil Nadu Court-Fees And Suits Valuation Act, 1965](#), I also should point out that in so far as Order 7 Rule 11 is concerned, payment of Court fee is not a ground for rejection. Under Order 7 Rule 11 (b), a plaint is liable to be rejected, only if the Court comes to a conclusion that the valuation made by the plaintiff is erroneous and calls upon the plaintiff to pay additional court fees and despite the time granted by the Court to the plaintiff, if still, the plaintiff does not deposit the required Court Fee, the Court shall proceed to reject the plaint. That situation has not arisen in the present case.

12. Therefore, I am of the view that the order passed by the learned Principal District Munsif, Perambalur, in I.A.No.2 of 2023 in O.S.No.535 of 2012 dated 04.04.2024 cannot be taken any exception to.

13. In the result, the revision requires only an order of dismissal and



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accordingly, this Civil Revision Petition stands dismissed. No costs.

Consequently, the connected miscellaneous petition is closed.

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Index : Yes / No

Internet : Yes / No

Neutral Citation : Yes / No

Speaking / Non Speaking Order

To

The Principal District Munsif

Principal District Munsif Court, Perambalur.



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V.LAKSHMINARAYANAN, J.,
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