



C.R.PD.No.2903 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.PD.No.2903 of 2022 and
C.M.P.No.15748 of 2022

1.Kamalammal
2.Kuppan
Ponnuswamy (Died)
3.Ramachandran
4.Kasthuri
5.Kamala
6.Rajeshwari
7.Purushothaman
8.Kala @ Kalavathi
9.Chitra

... Petitioners

Vs.

1.Palanivel
2.V.Kokila
3.S.Nirmala
4.Punithavalli
5.N.Manjula
6.P.Chidanbaran
7.V.Sekar
8.Sundarmoorthy
9.S.Rukkumani
10.Amudha
11.Ponnammal
12.Annamml

... Respondents

PRAYER: Revision filed under Article 227 of the Constitution of India praying to set aside the order and decretal order passed in I.A.No.370 of 2017 in O.S.No.195 of 2015 on the file of Principal Sub Court, Chengalpattu dated 25.11.2011.



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For Petitioners : Mr.S.Anburaja
For R1 to R10 & R12 : Ms.R.Divya Preathika
For R11 : Served

ORDER

The civil revision petition arises against the order of the learned Principal Subordinate Judge, Chengalpattu at Kancheepuram in I.A.No.370 of 2017 in O.S.No.195 of 2015 dated 25.11.2021.

2. O.S.No.195 of 2015 is the suit for declaration that the judgment and decree obtained in I.A.No.261 of 2012 in O.S.No.183 of 1976 on the file of the Principal Subordinate Judge is null and void and for consequential relief of declaration of title and for injunction.

3. The revision petitioner before me is the defendant in the suit. According to him, the market value of the suit property is Rs.11,16,16,000/- on the date of which the plaint had been presented and the property had been under valued by Rs.83,71,250/- and hence, the plaint has to be rejected.



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4. Insofar as Court fee and jurisdiction are concerned, the averments made in the plaint alone matter. It is, of course open to the defendant, to show that the suit property has not been valued properly and he can always take a defence in the written statement or take out an application under Section 12(3) of the Tamil Nadu Court Fees and Suits Valuation Act, 1965 before the evidence on merits is recorded at the first instance.

5. In this case, the procedure under Section 12(3) was not followed but straight away, an application under Order VII Rule 11 had been filed. Before the learned trial Judge, the petitioner filed the guideline value of the property to state that the property i.e. 5 acres and 12 cents would be worth several crores of rupees but the plaintiff had arbitrarily fixed the value of the property at Rs.1,00,000/- which according to the defendant is illusory and notional.

6. A detailed counter was filed by the respondents stating that issues had been framed as early as on 09.08.2017 and the matter was listed for trial. It is at that stage the present application was filed.



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7. The learned trial Judge taking into consideration the property had been valued as Government Tharisu (தரிசு) held that even though the suit property is allegedly situated in the heart of city, Maraimalai Nagar, it cannot be valued as sought for by the defendant. The learned Judge held that she would treat Court fees as an additional issue in the suit and decide it at the time of final disposal. However, in the overall conspectus she came to a conclusion that the application for rejection of plaint is not maintainable. Consequently she dismissed the petition, hence, the revision.

8. Heard Mr.Anburaja for the petitioner and Mr.Divya Preathika for the respondents.

9. Learned counsel for the petitioner would submit that by producing Ex.P.1, which had been filed before the trial Court, the market value of the property is a few Crores of rupees whereas it had been merely valued at Rs.1,00,000/- and therefore, the Court ought to have rejected the plaint. He adds the Court ought to have called upon the plaintiff to pay the additional Court fee and in default should have rejected the plaint.



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10. Ms.Divya Preathika would argue that the written statement had been filed as early as 2016 and the matter is listed for trial and it was at that stage that an application was taken out for rejection of plaint. She would submit that as held by the Court the issue can be gone into at the time of trial. In fine, the allegations do not deserve rejection of plaint.

11. I have carefully considered the argument of either side.

12. As pointed out above, for the purpose of Court fee and jurisdiction all that matters is the averments made in the plaint. The averment made in the plaint make it clear that the property is a Government Tharisu. Therefore it does not show any revenue for the Government and hence, there should be no guideline value fixed for suit property. In such circumstances, the plaintiff is entitled to fix a notional value of the property and pay the Court fee. That has what has been done in the present case. Apart from that, the stage on which the application has to be taken into consideration. The present stage is that the matter is listed for trial.



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13. Insofar as the Court fee is concerned, an application under Section 12(3) should have been taken out before the first hearing of the suit or before the presentation of the written statement. The written statement having been presented in the year 2016 itself. Insofar as this section is concerned, the matter has already been listed for trial so the petitioner having missed the bus years ago cannot today try to board the same.

14. Apart from all this, the Court below has said it will decide the issue of Court fee along with the main suit and has granted liberty to the petitioner to let in evidence as regards the value of the suit. It is always open to the petitioner to let in evidence before the Court that the suit has not been properly valued when the suit is taken up for trial and I am sure if sufficient evidence is available, the Court will pass appropriate orders on the same.

15. In the light of the above discussion, I have to conclude that this is not a case which falls under Order VII Rule 11. Hence, I do not see any reason to interfere with the order of the learned Principal Subordinate Judge at Chengalpattu at Kancheepuram in I.A.No.370 of 2017 in



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O.S.No.195 of 2015 dated 25.11.2021. The order is confirmed. Liberty is granted to the petitioner to raise all objections at the Court for recording of evidence as reserved by the trial Judge.

16. The Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

03.04.2024

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation : Yes / No
Sgl

To
The Principal Sub Court,
Chengalpattu.



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V.LAKSHMINARAYANAN, J.

Sgl

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