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C.R.P.No.2992 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.2992 of 2021
and
C.M.P.No.21332 of 2021

C.Shanmugam

... Petitioner

Vs.

Raja.Damayandhi

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order dated 25.08.2021 passed in I.A.No.924 of 2019 in O.S.No.24 of 2017 on the file of the Additional District Munsif Court, Tiruvannamalai.

For Petitioner : M/s.K.Govi Ganesan

For respondent : served-no appearance

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner seeking to frame a preliminary issue with regard to the pecuniary jurisdiction of the Court to try



the suit.

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2. The respondent herein filed a suit seeking declaration that sale deeds dated 24.06.2008 and 05.12.2008 executed by one Gnanasekaran represented by his power agent K.Selvam in favour of petitioner/defendant were null and void. The plaint was valued by the respondent/plaintiff under Section 25(d) of Tamil Nadu Court Fees Act. The respondent was not a party to the sale deed impugned in the suit.

3. The petitioner/defendant filed an instant application seeking framing of preliminary issue with regard to the pecuniary jurisdiction of the Court to entertain suit. It is the case of the petitioner that even according to the averments found in the plaint, the suit property originally belonged to one Ramachandran, father of the respondent and he sold the same in favour of one Krishnamoorthy. The said Krishnamoorthy sold the property in favour of one Gnanasekaran. The respondent admitted in his plaint that petitioner purchased the property from power agent of said Gnanasekaran. Therefore, the respondent being a legal representative of above said Ramachandran is bound



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by the sale deed executed by father and hence, impugned sale deed being subsequent to the sale deed executed by Ramachandran, the respondent should have sought for declaration and possession and the suit should have been valued under Section 25(a) of the Tamil Nadu Court Fees Act. It is seen from the prayer in the plaint, the respondent seeks declaration only in respect of sale deeds dated 24.06.2008 and 05.12.2008 executed by one Selvam as a power agent of Gnanasekaran in favour of petitioner/defendant. The respondent/plaintiff is not a party to the said document. Therefore, question of valuing the same under Section 40 of Court Fees Act will not arise. The respondent rightly valued the suit claim under Section 25(d) of Tamil Nadu Court Fees and Suit Valuation Act, 1965 and paid the Court fee. The petitioner cannot compel the respondent to seek declaration of title and possession. Whether the prayer sought for by respondent is maintainable is entirely different matter and the same can be decided at final disposal. Therefore, the contention raised by the petitioner as if the suit would go out of the pecuniary jurisdiction if it is valued under Section 25(a) or Section 40 of Court Fees act is not acceptable to this Court. Hence, the Trial Court rightly came to the conclusion that suit has been properly valued under Section 25(d) of Court



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Fees Act and dismissed the application filed by the petitioner/defendant. I do not find any error in the order passed by the Trial Court.

4. Accordingly, the Civil Revision Petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

14.02.2024

Index : Yes / No

Internet : Yes / No

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To

The learned Additional District Munsif Court, Tiruvannamalai.



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S.SOUNTHAR, J.

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