IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 01.07.2024

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

C.R.P. No.3207 of 2022

and C.M.P. No.17072 of 2022

1. C. Thangavel S/o. Chinnasamy Gounder,
2. K.P. Shanmugavel S/o. Ponnia Gounder ...Petitioners / Petitioners

Vs.

1. Nandakumar S/o. Sankarappa Gounder
2. Saraswathi W/o. Nachimuthu Gounder
3. Manonmani W/o. Paramasivam
4. N. Radhakrishnan S/o. Nachimuthu Gounder
5. S.N. Duraikannan S/o. Nachimuthu Gounder
6. Ramakrishnan S/o. Ponnusamy Gounder
7. Sampoornam W/o. Ramakrishnan
8. Boomathi W/o. Thirumalaisamy ..... Respondents / Respondents

PRAYER: Civil Revision Petition is filed under section 227 of the Constitution of India, to set aside the fair and decreetal order dated 16.11.2018 made in I.A. No.438 of 2017 in O.S. No.324 of 2016 on the file of the District Munsif Court, Udumalaipettai.

For Petitioners : Mr. A. Sivaji

For Respondents : Mr. N. Thiagarajan

ORDER

The Civil Revision Petition has been preferred as against the order passed in I.A. No.438 of 2017 in O.S. No.324 of 2016 on the file of District Munsif Court, Udumalaipettai dated 16.11.2018, wherein the respondents herein have filed an application under Order VII Rule 11(a) of Code of Civil Procedure to reject the plaint by stating that the value of the property is not correct. The Trial Court, partly allowed the petition and directed to ascertain the value of the property. Against the said order, the present Civil Revision Petition is filed.

2. According to the petitioners, they filed the main Suit for the relief of declaration and permanent injunction and the value of the Suit for payment of court fee is valued, based on the kist value. The Trial Court, without considering the same, has partly allowed the petition to ascertain the value of the property.

3. According to the respondents, the guideline value of the property is more than Rs.10 lakhs and the market value is more than Rs.1 crore. Therefore, they filed a petition to ascertain the value of the property. The Trial Court after hearing both sides, partly allowed the application and directed to ascertain the market value of the property.

4. The learned counsel appearing for the petitioners would contend that

the respondents have filed the petition to reject the plaint on the ground that the valuation of the property has not properly valued. The petitioners valued the property based on kist and thereby, they properly valued the Suit for payment of Court fee, but the Trial Court without considering the same directed to ascertain the value of the property. Therefore, the order passed by the Trial Court is liable to be set aside.

5. The learned counsel appearing for the respondents would contend that the market value of the property is more than Rs.1 crore and the guideline value of the property is more than Rs.10 lakh, but the petitioners, by suppressing the same, valued the 'A' schedule property as Rs.4,000/- and 'B' schedule property as Rs.6,000/-. Therefore, they filed a petition before the Trial Court and the Trial Court after considering the facts and circumstances directed to ascertain the market value of the property. Therefore, the order passed by the Trial Court is in order and hence the present civil revision petition is liable to be dismissed.

6. Heard both sides and perused all the materials available on record.

7. On perusal of plaint, it is observed that the Plaintiff has valued the 'A' schedule property for a sum of Rs.4,000/- and Rs.6,000/- for 'B' schedule

property. There is no reference as to how the value of the property was fixed by the Plaintiff. According to the learned counsel appearing for the petitioner, the Suit was valued based on kist, but in the valuation paragraph of the plaint, there is no reference about the kist and the Suit has not been valued based on the kist. Therefore, the contention of the petitioners that they valued the property based on kist is not acceptable. The Trial Court after taking into consideration the contention of both sides, partly allowed the petition and directed to ascertain the market value of the properties.

8. In this context, the learned counsel appearing for the petitioners relied upon judgment in ***Padmavathy vs. A.N. Easwaravel reported in 2023 4 MLJ 180,*** wherein this Court held in para nos.4 and 5 as follows:-

> *"4. On considering the rival submissions of both sides, the trial court first extracted Section 7, as amended vide Tamil Nadu Court Fees and Suit Valuation Act [Tamil Nadu Act 6/2017], which came into force on 01.03.2017, but proceeds to go for a definition of market value elsewhere.*
>
> *5. Heard both sides. This Court finds that the approach of the court below is not supported by law. Till the coming into force of Tamil Nadu Act 6/2017, suit valuation for a class of suits falling under Section 25(b) shall be reckoned at half the market value of its market value. But, the market value carries a technical definition under Section 7, according to which, it is 30 times the kist. It is nobody's case that the suit was not valued in terms of the definition 'market value' under Section 7 as it was. What however sought to be telescoped is the effect of the amendment to Section 7, by which Section 7(2) was dropped and an Explanation was added, and this Explanation provides that the market value must be reckoned prima facie at the guideline value fixed by the authorities concerned under Section 47-AA of Indian Stamp Act, 1899 and unless the plaintiff is able to demonstrate that the guideline value so fixed was artificial, the*

> *said value binds the plaintiff. But as mentioned earlier, this will be the position from 01.03.2017, the date on which act 6/2017 came into force. However, in the instant case, the suit was laid sometime in 2012, and therefore, the suit must be valued only in terms of the act that was then in force when the suit was instituted".*

On careful perusal of the above judgment, it is clear that the Suit must be valued only in terms of the Act that was then in force when the Suit was filed. In this case on hand, the Suit property has not been valued based on the kist. The kist receipts were enclosed in the plaint. The valuation para does not disclose the value of the Suit based on kist value. Therefore, it is for the trial Court to decide the matter whether the Suit has to be valued based on market value or kist value. The Trial Court only passed order to determine the value of the Suit property. Therefore, at this stage, interference of this Court does not require.

9. In view of the above discussion, this petition has no merits and deserves to be dismissed.

10. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

01.07.2024

Index : Yes/No
Speaking order/non-speaking order
mjs

P.DHANABAL, J.,

mjs

To
The District Munsif Court, Udumalaipettai.

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