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C.R.P.(PD).No.2944 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).No.2944 of 2022

Sagadevan

... Petitioner

-Versus-

- 1.Rukmani Ammal
- 2.Veerabadran
- 3.Dhandapani
- 4.M/s.E.P.K.Property Developers,
No.806-A, Vandalore Kelambakkam Main Road,
Kizhakottaiyur Village,
Tirupporur Taluk,
Chengalpattu District – 600 127.
- 5.M/s.Rajeswari Educational & Charitable Trust,
No.21, Second East Main Road,
Gandhi Nagar, Vellore – 632 006. ... Respondents

Civil Revision Petition under Article 227 of the Constitution of India
against the order dated 02.12.2020 made in O.S.SR1161 of 2020 on the file of
the District Munsif Court, Chengalpattu.

For Petitioner : Mr.M.Adeeb Mohammed



C.R.P.(PD).No.2944 of 2022

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ORDER

The plaintiff is on revision before me. The suit itself had not been numbered and therefore, I am not inclined to order notice to the respondents.

2. The case of the plaintiff is that his father had purchased the property by way of two sale deeds on 20.10.1942 and 17.02.1949. His father and mother passed away on 25.02.1973 and 22.10.1988 respectively. The plaintiff claims that he is the sole surviving legal heir of his parents. Though he had not alienated the property, the defendants 1, 2 and 3 have created three documents as if the plaintiff had alienated the property in their favour. Hence, he filed the suit claiming the relief of declaration that the three sale deeds, all dated 22.05.1978, are null and void and not binding on him.

3. Learned District Munsif had returned the plaint stating that the suit has to be valued under Section 40 and not under Section 25(d) of Tamil Nadu Court Fees and Suits Valuation Act. The learned District Munsif seems to be under the impression that whenever the sale deed is challenged, the remedy should be valued only under Section 40 of the said Act.



4. The Tamil Nadu Court Fees and Suits Valuation Act is a substantive law. It is in the nature of a taxing statute and it must be read strictly. An expansive definition, as given by the learned District Munsif, would not pass muster.

5. A party is called upon to value the suit under Section 40 of the Act if and only if he is a party to the said document. When the plaintiff has stated in the plaint that he has nothing to do with the said sale deeds and they have come into force *inter se* due to the fraud played by the defendants 1 to 3, to state that the valuation must be done under Section 40 is contrary to law.

6. If the plaintiff had executed a power of attorney in favour of a third party and that third party had executed a sale deed, then the plaintiff can be treated as a party to the document, and he should have valued it under Section 40. That is not the situation here.

7. The plaintiff totally denies any knowledge of the documents for which he seeks a declaration. Therefore, the appropriate valuation is under Section 25(d).



C.R.P.(PD).No.2944 of 2022

WEB COPY

8. In the light of the above discussion, the order of the learned District Munsif, Chengalpet dated 21.12.2020 is set aside. The learned District Munsif is directed to take the suit on file if it is otherwise in order and thereafter proceed in accordance with law. The learned District Munsif is requested to act on the basis of the web copy of the order produced before him for the purpose of numbering the suit.

9. With the above direction, this civil revision petition is allowed. No costs.

15.04.2024

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Note: Issue order copy on 17.04.2024

Index : yes / no

Neutral Citation : yes / no

Speaking / Non Speaking Order



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C.R.P.(PD).No.2944 of 2022

To

The District Munsif Court, Chengalpattu.



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V.LAKSHMINARAYANAN, J.

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