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C.R.P. No.3870 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2024

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

C.R.P. No.3870 of 2022

and C.M.P. No.20315 of 2022

1. D. Vijaya W/o. Desikamani
2. D. Raghavan S/o. Desikamani ...Petitioners / Petitioners / Defendants

Vs.

D.Muralikrishnan S/o. Desikamani Respondent / Respondent / Plaintiff

PRAYER: Civil Revision Petition is filed under section 227 of the Constitution of India, to set aside the fair and decreetal order dated 02.09.2022 made in I.A. No.1 of 2021 in O.S. No.267 of 2017 on the file of Principal District Munsif Court, Coimbatore.

For Petitioners : Mr. L. Mouli

For Respondent : Mr. Vadiraj Anirudh

ORDER

The Civil Revision Petition is filed by the petitioner challenging the order passed in I.A. No.1 of 2021 in O.S. No.267 of 2017 on the file of Principal District Munsif Court, Coimbatore dated 02.09.2022, wherein these petitioners have filed a petition before the Trial Court under Section 12 of



C.R.P. No.3870 of 2022

Tamil Nadu Court-Fees and Stamp Valuation Act to ascertain the market value of the Suit property and the same was dismissed by the Trial Court.

Against the said order, the present Civil Revision petition is filed.

2. According to the petitioners, they are defendants in the main Suit filed by the respondent herein for the relief of declaration, partition and for separate possession. The Plaintiff has not properly valued the Suit property and the Suit property is valued at Rs.71,000/-, but infact, the property is worth around Rs.3 crores and 1/3rd share of the Plaintiff would come around Rs.1 crore, but the respondent / Plaintiff suppressed the value of the property and thereby, the petitioners herein have filed the petition to ascertain the market value of the property as per Section 12 of Court-Fees and Suits Valuation Act. But the Trial Court without considering the facts of the case passed the order as if the petition was filed to pay Court fee under Section 37(1) instead of 37(2) of Tamil Nadu Court-Fees and Suits Valuation Act. Therefore, the order passed by the Trial Court is liable to be set aside.

3. According to the respondent, he is the Plaintiff in the main Suit. He filed the main Suit for partition, separate possession and for declaration in respect of registered partition deeds and thereby he paid the Court fee under



C.R.P. No.3870 of 2022

Section 25(a) of Tamil Nadu Court-Fees and Suits Valuation Act for the relief of partition and for relief of declaration. The petitioners being the defendants filed an application to determine the value of the property stating that the value of the property is around Rs.3 crores and value of the share of the Plaintiff itself comes around Rs.1 crore and thereby, the value of the property is not appropriate, but the Trial Court after elaborate discussion, correctly dismissed the petition. Therefore, the order passed by the Trial Court is to be confirmed.

4. Before the Trial Court, no oral or documentary evidence adduced on either side. The Trial Court after hearing both sides, dismissed the application.

5. The learned counsel appearing for the petitioners requested this Court to remand the case to Trial Court for fresh consideration stating that the Trial Court has passed order that the Court fee paid under Section 37(2) of Court-Fees and Suits Valuation Act is correct and the Plaintiff need not pay Court fee under Section 37(1) of Court-Fees Act, but the petitioners prayed to ascertain the market value of the property, so that the Plaint can be presented before the jurisdictional Court, but the Trial Court failed to consider the same



C.R.P. No.3870 of 2022

and passed order as if challenging the Court fee paid under Section 37(2) instead of Section 37(1) of Court-Fees and Suits Valuation Act. Therefore, matter may be remanded back to the Trial Court for fresh consideration.

6. The learned counsel appearing for the respondent fairly submitted that he has no objection since the Trial Court discussed about the payment of Court fee under Section 37(2) of the Tamil Nadu Court-Fees and Suits Valuation Act. Therefore, the matter may be remanded back to the Trial Court by setting aside the order of the Trial Court.

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

8. When the matter was taken up for hearing, both the learned counsel appearing on either side, admitted that the petition was filed to ascertain the market value of the property, but the Trial Court passed an order as if the petition filed for payment of Court fee under Section 37(1) of the Tamil Nadu Court-Fees and Suits Valuation Act. This Court also perused the records and seen that the Trial Court discussed about the Section 37(1) and 37(2) of the Tamil Nadu Court Fee and Suits Valuation Act and passed orders. Therefore, the Trial Court has not passed order based on the pleadings and thereby, without going into the merits of the case, this Court is inclined to set aside the order passed by the Trial Court and remand back the case to the Trial Court



C.R.P. No.3870 of 2022

for fresh consideration in accordance with law.

9. With the above observations, this civil revision petition is allowed.

No costs. Consequently, the connected miscellaneous petition is closed.

02.07.2024

Index : Yes/No

Speaking order/non-speaking order

mjs

To

The Principal District Munsif Court, Coimbatore.



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C.R.P. No.3870 of 2022

P.DHANABAL, J.,

mjs

CRP. No.3870 of 2022

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