



C.R.P.No.5064 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

Civil Revision Petition No.5064 of 2023
and
Civil Miscellaneous Petition No. 29450 of 2023

N. Muthaiya

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Petitioner

Vs

1. The District Collector,
Perambalur.
2. The Commissioner of Revenue Department,
Perambalur.
3. The Tahsildar,
Perambalur.
4. The Village Administrative Officer,
Elambalur Village,
Perambalur District.

5. Periyasamy

...

Respondents



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Prayer: Civil Revision Petition has been filed under Article 227 of the Constitution of India to set-aside the order dated 17.10.2023 made in O.S.No.14 of 2012 on the file of the learned Additional District Munsif Court, Perambalur by allowing the Civil Revision Petition.

For Petitioner : Mr. N. Manoharan

For respondents : Mr. C.Sathish,
Government Advocate (CS)
for R1 to R3.

ORDER

Challenging the order, dated 17.10.2023, passed by the learned Additional District Munsif, Perambalur, in O.S.No.14 of 2012, the present revision petition has been filed.

2. The fact of the case is that the petitioner herein had filed the suit against the defendants for permanent injunction restraining the defendants 1 to 4 from interfering with the peaceful possession and enjoyment of the remaining unsold plots of the suit property out of the divided plots of suit property and not to alter the revenue records for the suit properties and for declaration of



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right of sale over the unsold plots of the suit properties and for consequential permanent injunction against the 5th respondent/defendant. In the said suit, the 5th respondent/defendant had filed a petition to reject the plaint in I.A.No.3 of 2023 under Order VII Rule 11(d) and (b) on the ground of undervaluation of the suit, which was dismissed with one of the reasons that the plaint cannot be rejected on undervaluation without giving opportunity to rectify the same. Subsequently, the suit was posted for hearing on preliminary issue as to whether the suit claim is under valued. The Trial Court, by an order dated 17.10.2023, directed the petitioner/plaintiff to value the suit property under Section 25(b) of Tamil Nadu Court Fees and Valuation Act 1955 and also directed to pay the same within one month. Aggrieved over the same, the present revision has been filed.

3. The learned counsel for the petitioner submitted that the Court below Suo-motu framed preliminary issue and directed the petitioner to pay the Court Fee under Section 25(b) of Tamil Nadu Court Fees and Valuation Act 1955. The petitioner/plaintiff is not claiming declaration of title over the property, and his prayer is only to limited prohibition of plots, which were not sold by them



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and he is entitled to sell the plots as per the agreement as well as the Power of Attorney. Therefore, Section 25(b) of Tamil Nadu Court Fee and Valuation Act 1955 will not be attracted and thus, prayed to allow the revision.

4. I have considered the submission of the learned counsel for the petitioner and perused the materials on records carefully.

5. On perusal of records, the fact reveals that the petitioner is the plaintiff and the respondents are defendants in O.S.No.14 of 2012 on the file of the Additional District Munsiff, Perambalur, in which, the defendant filed an application in I.A.No.3 of 2023 for rejection of plaint, which was dismissed on 05.07.2023. After that, the Trial Court, suo-motu framed preliminary issue as to whether the suit claim is under valued and after considering the pleadings, has come to the conclusion that the suit prayer is pursuant to the immovable properties and the plaintiff has to value the suit in accordance with Section 25(b) of the Tamil Nadu Court Fees and Valuation Act 1955. Section 25(b) of the Tamil Nadu Court Fees and Valuation Act runs as follows :-

“ Where the prayer is for a declaration and for



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consequential injunction and the relief sought is with reference to any immovable property, fee shall be computed on one-half of the market value of the property or on rupees one thousand, whichever is higher;”

6. The above provision is very clear that any prayer for declaration and for consequential injunction and any other relief sought is with reference to immovable property, the fee should be computed on one half of the market value of the property or on Rs.1000/-, whichever is higher. But, in this case though the prayer is with reference to immovable properties, the suit is valued under 25(d) and 27(c) of the Tamil Nadu Court Fees and Valuation Act 1955, which is not permissible. Therefore, I find no infirmity in the impugned order passed by the Trial Court and I find no merit in the revision and the same is liable to be dismissed.

7. At this stage, the learned counsel for the petitioner seeks 3 months time for payment of deposit of court fees.



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8. In the result, this Civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs. Considering the submission of the learned counsel for the petitioner, 3 months time has been granted to pay the deficit court fees.

05.01.2024

Index: yes/no
Internet:yes/no
mrp

To

The Additional District Munsiff,
Additional District Munsiff Court,
Perambalur.



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V. SIVAGNANAM, J.

mrp

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