



C.R.P. No.3109 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P. No.3109 of 2018

and

C.M.P. No.17933 of 2018

1. Premila Jayamohan W/o. Late Jayamohan
 2. Sharmila Sampath Kumar W/o. Sampath Kumar
 3. J. Chitra D/o. Late Jayamohan
 4. Sanjay Jayamohan S/o. Late Jayamohan
- ... Petitioners

vs.

1. Lalithakumari (died)
 2. C.K. Annamalai
 3. Chitra Annamalai
 4. Geetha Annamalai
- ... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the judgment and decree dated 10.08.2018 passed by the XVIII Additional City Civil Court, Chennai in the preliminary issue in O.S. No.6889 of 2014.

For Petitioners : Mr. Sundar Rajan.T.

For Respondents : R1 - died
R2 to R4– Served – No appearance



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ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court directing the petitioners to amend the plaint and value of the Suit at Rs.1,18,12,500/-. The Trial Court also directed that after such amendment the plaint shall be returned for presentation before the Court having pecuniary jurisdiction.

2. The petitioners herein filed a Suit for partition claiming half share over the suit property which was originally allotted to the father-in-law of the 1st plaintiff and grand father of the plaintiffs 2 to 4. The petitioners/plaintiffs valued the suit property at Rs.20 lakhs and paid Court fee under Section 37(2) of the Tamil Nadu Court Fee Act on the allegation that the petitioners are in joint possession of the suit property. The said averment was disputed by the respondents, following which a preliminary issue was framed with regard to the correctness of the valuation adopted by the petitioners. The parties were afforded with opportunity to lead evidence on the preliminary issue and on consideration of the evidence let in by the parties, the Trial Court came to the



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conclusion based on the document, Ex.B.3, the guideline value of the property maintained at Sub-Registrar Office, that the value of the suit property was Rs.2,36,25,000/-. Consequently the petitioners were directed to value the suit at Rs.1,18,12,500/- . Aggrieved by the same, the petitioners are before this Court.

3. The learned counsel for the petitioners assailed the order passed the Trial Court mainly on the ground that the guideline value cannot be the basis for ascertaining the market value of the property. The learned counsel further submitted that the amendment of Tamil Nadu Court Fee Act making the guideline value as a yardstick for determining the market value came into force on 01.03.2017 and the suit was filed prior to such amendment and hence as per law that was applicable at the point of time, the market value has to be determined based on the own valuation of the plaintiff. In support of his contention, the learned counsel for the petitioner has relied on the following judgment of the Hon'ble Apex Court in ***Jagannath Amin vs. Seetharama (dead) by Lrs and others reported in IV (2007) SLT 254.***



4. Though the respondents are served and their names appear in the

list, there is no representation for the respondents.

5. The petitioners herein filed a Suit for partition claiming that they are in joint possession of the suit property and valued the suit under Section 37(2) of the Tamil Nadu Court Fee Act. The Trial Court came to the conclusion that the respondents are deemed to be in joint possession of the property and therefore valuation of suit under Section 37(2) of Tamil Nadu Court Fee Act was correct. However, with regard to the market value, the Trial Court held that the suit having been filed on 30.10.2014, the guideline value of the suit property was Rs.7000/- per sq. ft. and hence the market value of the suit was arrived at Rs.2,36,25,000/-. As rightly pointed out by the learned counsel for the petitioner, the amendment of the Tamil Nadu Court Fee Act making the guideline value as a yardstick for determining the market value, came into force only on 01.03.2017.

6. Prior to the said amendment, the market value means only the value of the property which a willing purchaser is ready to pay and willing seller is



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ready to accept on the date of presentation of the plaint. The petitioner in his own valuation mentioned the market value of the suit property at Rs.20 lakhs.

The same was disputed by the respondents. However, the respondents have not let in any evidence to show that the market value of the suit property is more than Rs.20 lakhs. Only the document produced by the respondents is the guideline value maintained by the Sub-Registrar Office, Ex.B.3. As mentioned earlier, the guideline value cannot be a yardstick for determining the market value prior to amendment in the Tamil Nadu Court Fee Act which came into force on 01.03.2017. The present suit was filed in the year 2014. Therefore, in the absence of any evidence let in on the part of the respondents to show the valuation fixed by the petitioners is not correct and the market value of the property is more than Rs.20 lakhs, the Court below ought not to have rendered a finding that the market value is more than the valuation of the plaintiffs that too based on the guideline value extract.

7. Accordingly, the Civil Revision Petition is allowed. The impugned order dated 10.08.2018 passed by the XVIII Additional City Civil Court, Chennai in the preliminary issue in O.S. No.6889 of 2014 is set aside. The



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matter is remitted back to the file of learned XVIII Additional Judge, City Civil Court, Chennai with direction to dispose of the same on merits. No costs. The connected miscellaneous petition is closed.

12.03.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
mjs

To

The XVIII Additional Judge,
City Civil Court,
Chennai.



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S.SOUNTHAR, J.

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