BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2024

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.1891 of 2024

1.T.Shaju Kumar
2.T.Dennis Jayaraj
3.T.Robi ... Petitioners / Plaintiffs

Vs.

1.C.Lakshmi

2.L.Lalitha Bai

3.Subha

4.Sivakumar @ Jeevakumar

5.C.Gnanadhas ... Respondents / Defendants

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order of return dated 25.06.2024 of the learned Subordinate Judge, Kuzhithurai made in the plaint in un-numbered original suit in O.S.No.201 of 2024 and CNR No.TNKKOC0003962024 on its file, directing him to number the suit.

For Petitioners : Mr.K.N.Thambi

O R D E R

Heard the learned counsel for the revision petitioners.

2.The revision petitioners filed unnumbered suit before the learned Sub Judge, Kuzhithurai seeking the relief of declaration and permanent injunction. The court below declined to number the suit for the reason that the court fee has not been properly computed. Challenging the return made by the court below, this Civil Revision Petition has been filed.

3.It is seen that the petitioners have assessed the market value of the property based on the valuation set out in the suit sale deeds. The sale deeds are of the year 2007. The court below entertained a doubt whether the valuation that obtained in the year 2007 would represent the current market value of the suit property. In that view of the matter, the impugned return came to be made.

4.The relevant provision is Section 7 of Tamil Nadu Court-Fees and Suits Valuation Act, 1955. It reads as follows:-

"**7.Determination of market-value**.- (1) Save as otherwise provided, where the fee payable under this Act depends on the market-value of any property, such value shall de determined as on the date of presentation of the plaint.

Explanation – For the purpose of this section, "market-value" means the market-value fixed under Section 47-AA of the Indian Stamp Act, 1899 (Central Act II of 1899) :

Provided that in cases where the plaintiff assessess the value of the immovable property at a lesser amount than the market-value, he shall give adequate reasons as to why the market-value fixed under Section 47-AA of the Indian Stamp Act, 1899 (Central Act II of 1899) does not represent the real market-value of that immovable property.

(2) The assessment made by the plaintiff shall be accepted by the Court at the initial stage of numbering the suit, subject to objection that may be raised by the other party to the litigation."

5.The learned counsel for the petitioners raised two contentions. According to him, the guideline value is one thing, market value is another. The court below appears to have been swayed by the guideline value. His second contention is that at the stage of numbering the suit, the court cannot question the assessment of market value made by the plaintiff.

6.Both these contentions cannot be accepted as such. This is because of the amendments which the relevant statutes have witnessed. It is fashionable to assert that guideline value is not market value and it cannot be mechanically adopted. But, the Indian Stamp Act, 1899 has been amended by Tamil Nadu

Act 13 of 2008 with effect from 01.06.2010, 47-AA has been incorporated. It provides for constitution of a valuation committee for estimation, publication and revision of market value guidelines of properties in any area in the State at such intervals and in such manner as may be prescribed, for the purpose of Section 47-A of the Stamp Act. There is also a provision for constituting sub-committees in each districts. Pursuant to the power conferred by section 75 read with section 47 AA of the Act, the Government of Tamil Nadu issued Tamil Nadu Stamp (Constitution of Valuation Committee for Estimation, Publication and Revision of Market Value Guidelines of Properties) Rules, 2010 vide G.O.Ms.No.75, Commercial Taxes and Registration dated 01.06.2010 and published vide Tamil Nadu Government Gazette No.165 dated 01.06.2010. The explanation to Rule 3 of Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, which states that the guideline register entries would not fetter the discretion of the authority may no longer hold good. This is because the parent Act has been amended as far as the State of Tamil Nadu is concerned. It is expressly set out in Section 47 AA that the valuation committee and the sub-committees functioning under it are to estimate, publish and revise market value guidelines for the purpose of section 47A. Rule 4 (2) of the Tamil Nadu Stamp (Constitution of Valuation Committee for Estimation, Publication and Revision of Market Value Guidelines of

Properties) Rules, 2010 provides for publication of estimation or revision in the local news papers and also on the notice board of important offices and allowing a period of 15 days for receipt of objections and suggestions from the public and thereafter, placing the same before the committee in question. It is also open to the Registrar concerned to remit the matter to the valuation sub-committee for rectification, if he finds any discrepancy or omission. Thus, the whole exercise now partakes of a statutory flavour.

7.The court is therefore justified in going by the valuation made under Section 47-AA of the Indian Stamp Act, 1899. If plaintiff values the property below such valuation,

(a) he must mention the market value as per Section 47-AA of the Act

b) and give adequate reasons as to why his valuation is lower.

This is a mandatory duty cast on the plaintiff. The statutory provision employs the expression "**shall give adequate reasons as to why the market value fixed under Section 47-AA of the Indian Stamp Act, 1899 (Central Act II of 1899) does not represent the real market value of that immovable property**". One cannot lose sight of the significance of the terms "**adequate reasons".** When the legislature has consciously engrafted such expressions, the obvious intent is to ensure that proper court fee is paid as per the market value.

8.I wondered what would be the consequence if according to the court, the reasons assigned by the plaintiff are not adequate. While the plaintiff is obliged to offer proper reasons for his differential valuation, it need not be to the satisfaction of the court. If such requirement is insisted upon, sub-section 2 of Section 7 of the Act would be rendered redundant. In the sub-section, the expression used is “shall be accepted”. The proviso to sub-section 1 and the sub-section 2 of Section 7 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 will have to be harmoniously construed. The reasons given by the plaintiff must prima facie appear to be adequate. Once this requirement is satisfied, it is not open to the court to probe the matter further at the stage of numbering. The plaintiff's assessment must be accepted as such. In other words, the court shall not treat the issue of valuation as a condition precedent for numbering the suit. The plaintiff's valuation is subject to objection that may be raised by the other party to the litigation later.

9.The expression used in sub-section 2 is “at the initial stage of numbering the suit”. This leaves open the possibility of the court suo motu to raise the issue of under valuation later. It is the duty of the court to see to it that the suit is properly valued and appropriate court fee paid. I leave this issue open.

10.In this case, the plaintiffs have failed to mention what is the market value fixed under Section 47-AA of the Stamp Act. I, therefore, grant liberty to the petitioners herein to re-present the plaint. They have to adhere to the directions given above. This Civil Revision Petition is disposed of. No costs.

13.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
rmi/Skm

NOTE:Registry is directed to return the original plaint to the learned counsel for the revision petitioners for re-presentation before the court below.

To:

The Subordinate Judge, Kuzhithurai.

G.R.SWAMINATHAN, J.

rmi/SKM

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