



C.R.P.(MD)No.2603 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :16.08.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

C.R.P.(MD).No.2603 of 2015

V.M.A.Sahul Hameed

... Petitioner

Vs.

1.S.Kameela Begam

2.S.Rihana Begam

3.Jubaita Begam

4.R.Farook

5.Suhaina Begam

6.R.Ameer Kalith

7.V.M.A.Meera Mydeen

8.M.Jokara Beevi

9.K.Balkees Begam

10.Ayesha Beevi

11.V.M.A.Jamal

12.M.Arifa Begam

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12.V.M.A.Basheer Ahamed

... Respondents

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PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the petition and the docket order dated 22.09.2014 made in I.A.No.231 of 2010 in O.S.No.57 of 2008, on the file of the Sub-Court, Theni.

For Petitioner :Mr.M.Mohamed Ibram Saibu for

:M/s.Ajmal Associates

For Respondents : Mr.G.Mohankumar for R1 & R2

: No appearance for R7 to R13

ORDER

The 12th defendant in Suit in O.S.No.57 of 2008, on the file of the Sub Court, Theni has filed this petition challenging the docket order passed in I.A.No.231 of 2010 dated 22.09.2014.

2. The respondent Nos.1 and 2 have filed the Suit in O.S.No.57 of 2007 for partition claiming 5/52 share in the suit scheduled property. The said suit was decreed and thereafter, final decree application was filed in I.A.No.231 of 2010. In the said final decree proceeding, an Advocate



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Commissioner was appointed and the Advocate Commissioner has filed a report that the property is indivisible one and hence, he recommended to sell the property in public auction. To conduct, the public auction, the upset price was fixed as Rs.30,00,000/- in spite of the minimum value of the property is Rs.4,64,800/-. Challenging the said order, the petitioner filed this Civil Revision Case before this Court.

3. The learned counsel for the petitioner submitted that the Court below without any material and without any evidence fixed the upset price of Rs.30,00,000/-. The same was not based on any specific calculation. Apart from that, even valuer was also not appointed to fix valuation. In the said circumstances, he wants to appoint the valuer and assess the value of the property and thereafter, fix the correct value and continue the further auction as per the procedure.

4. The learned counsel for the respondents submitted that it is true that without any basis the Court below fixed the value of Rs.30,00,000/-, but considering the location of the property, which is in Theni town, the value is correct. Hence, he seeks for dismissal.



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5. This Court considered the rival submissions made by the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.

6. This Court perused the entire I.A., proceedings commencing from 09.08.2010 to 22.09.2014. No materials have been produced before the Court to arrive the said value of the property for a sum of Rs. 30,00,000/-. Hence, this Court is inclined to set aside the docket order passed by the learned trial Judge.

7. Accordingly, this Civil Revision Petition stands allowed with the following directions:

7.1.The docket order passed in I.A.No.231 of 2010 in O.S.No.57 of 2008 dated 22.09.2014 by the learned Subordinate Judge, Sub Judge, Theni is hereby set aside.



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7.2.The learned trial Judge is hereby directed to appoint the valuer of the property from Public Works Department and obtain the value of the property and fix the upset price and conduct public auction. Both parties are directed to bear the costs for the valuer.

16.08.2024

NCC :Yes / No
Index :Yes / No
Internet :Yes / No

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To.

The Principal District Munsif Court, Srivilliputhur.



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K.K.RAMAKRISHNAN, J.

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