



CRP(PD)(MD).No.1955 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.11.2024

CORAM

THE HONOURABLE MRS JUSTICE K. GOVINDARAJAN THILAKAVADI

C.R.P(PD)(MD)No.1955 of 2022 and
CMP(MD).No.8972 of 2022

1.Malathy
2.Sadhasivam : Revision Petitioners/ defendants 2 & 3

Vs.

1.Valliammal
2.Ganesan
3.Malaiaammal : Respondents / Plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order, dated 01.07.2022 made in I.A.No.1 of 2021 in O.S.No.164 of 2018 on the file of the Additional District Munsif, Tuticorin.

For Petitioners : Mr.V. Shathurthi Raja

ORDER

This Civil Revision Petition is preferred against the fair and decreetal order, dated 01.07.2022 made in I.A.No.1 of 2021 in O.S.No.164



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of 2018 on the file of the Additional District Munsif, Tuticorin.

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2. According to the revision petitioners they are the defendants 2 and 3 in the above suit. The respondents as plaintiffs filed the above suit in O.S.No.164 of 2018 for the relief of declaration and injunction declaring the sale deed, dated 02.04.2001 executed by the 2nd defendant in favour of the 1st defendant with regard to the item No. 1 of the suit schedule property as null and void. The revision petitioners filed their written statement stating that the market value of item No.1 of the suit property is Rs.3,19,520/- wherein the actual market value of the 2nd item is mentioned as Rs.28,00,000/-. The properties were valued lesser than the market value. Hence, the said issue has to be decided as preliminary issue. Hence, the petitioners were constrained to file an application in I.A.No.1 of 2021 for determination of the value of the suit property as per the Suit Valuation Act. The same was resisted by the respondents / plaintiffs stating that the correct value of the properties are mentioned in the suit property and therefore, the said application is liable to be dismissed. The trial Court considering the averments made in the counter affidavit dismissed the said application stating that the respondents / plaintiffs are not a party to the sale deeds and therefore, the prayer for declaring the sale



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deeds as null and void is correct and that there is no bonafideness in the application filed by the petitioner and by stating so, the said application was dismissed. Aggrieved by the same, the present revision is preferred.

3. The learned counsel appearing for the revision petitioners would submit that the guideline values of the 1st and 2nd schedule of suit properties are Rs.3,19,520/- and Rs.4,93,938/- respectively and the market value of the said properties are Rs.18,00,000/- and Rs.28,00,000/- respectively. However, the trial Court failed to note that the value of the suit properties prima facie exceeds the pecuniary jurisdictional limit of the Court and therefore, ought to have determined the value of the Court fees to be paid as the preliminary issue. He further contended that the trial Court failed to note that as per Section 12(2) of the Tamil Nadu Court Fees and suit valuation Act, 1955 it is the duty of the trial Court to decide the issue of undervaluation of the suit raised by the revision petitioners / defendants before proceeding to record the evidence and further conducting trial. Further, in support of his contentions he has also relied upon the following Judgments:

1. 2017 (6) CTC 201 (J. Vasanthi and others Vs. N.Ramani Kathammal (D) rep. by L.Rs and others)



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2. 2017(2) CTC 309 (M.Panneer Selvam Vs. Suseela)
3. 2012(5) CTC 705 (S.N.S.Sukumaran Vs. C. Thangamuthu)

4. Heard the learned counsel appearing for the petitioners and perused the materials available on record.

5. On perusal of the records and the impugned order passed by the trial Court, this Court do not find any substances for interfering with the order passed by the learned trial Judge. Since the plaintiffs were not parties to the sale deeds, the Trial Court has rightly held that, the relief sought by the plaintiffs for declaring the sale deeds as null and void is correct and that the Court fee paid under Section 25(d) of the Tamil Nadu Court Fees and suit valuation Act, 1955 is also correct. If a person is not a party to the document, he need not seek for cancellation. He can seek for declaration to declare the document as null and void for which the Court fee has to be paid under Section 25(d) of the Act which is done in the present suit. Hence, this Court does not find any infirmity or perversity in the order passed by the Court below. Further, the Judgment relied on by the learned counsel for the petitioners is not applicable to the facts of the present case.



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6. In the result, this Civil Revision Petition is dismissed confirming the order, dated 01.07.2022 made in I.A.No.1 of 2021 in O.S.No.164 of 2018 on the file of the Additional District Munsif, Tuticorin. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes / No
Internet : Yes/ No
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To

The Additional District Munsif, Tuticorin.



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