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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26/10/2026

CORAM

THE HONOURABLE **MS JUSTICE R.POORNIMA**

CRP(MD) NO. 2377 of 2023
{CNR: HCMD010974752023}
Case QR

and

CMP(MD)No.12241 of 2023

Thahakhan : Petitioner/Petitioner/1st Defendant

Vs.

1.Farithulla Khan
2.Kaja Kamaludeen
3.Feroz Khan
4.Pasheer Ibunu
5.Segujalaludeen : Respondents/Respondents/Plaintiffs

Prayer:-This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order, dated 14/07/2023 passed in the application in IA No.191 of 2016 in OS No.121 of 2012 on the file of the District Munsif Court, Ramanathapuram.

For Petitioner : Mr.J.Barathan

For Respondents : Mr.S.Srinivasaraghavan
for Mr.M.S.Jeyakarthik

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O R D E R

This Civil Revision Petition has been filed challenging the fair and executable order, dated 14/07/2023 passed in I.A No.191 of 2016 in O.S No.121 of 2012 on the file of the learned District Munsif Court, Ramanathapuram.

2.The petitioner is the first defendant in O.S No.121 of 2012, instituted by the respondents herein, who are the plaintiffs in the suit, seeking a decree of declaration of title and a consequential decree of permanent injunction restraining the defendants from interfering with their peaceful possession and enjoyment of the suit properties. The suit properties have been described in the plaint as Natham Survey Nos. 224/19 and 224/1, measuring 0.31.00.0 square metres and 1.09.00.0 square metres, respectively. In paragraph 3 of the plaint, it has been specifically stated that "jhth 1tJ ,yf;fr; brhj;J bghpagl;ozk; fpuhk jw;nghija ej;jk; rh;nt vz; 224/19 vd;Wk; jhth 2tJ ,yf;fr; brhj;J ej;jk; rh;nt vz; 224/1 vd;Wk; rh;nt bra;ag;gl;Ls;sJ. i\ brhj;Jf;fis giHa rh;nt vz; 73/1 d; gFjpahFk;. Even in paragraph 7 of the plaint, it has been stated that gpd;dh;> i\ bra;aJ ,g[uhfpk; mk;gyk;> kw;Wk;

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bra;aJ mcwkJ Mfpa ,UtUk;> mth;fSf;F ghj;jpakhd bghJr; brhj;Jf;fis ghfk; bra;J bfhz;ljpy;> ,e;j tHf;fpd; jhthr; brhj;J> i\ bra;aJ ,g[uhfpk; mk;gyj;jpd; ghfj;jpy; fpilj;J mjd; mDgtk; bra;J te;jhh.; mth; 17.12.1996-k; njjp ,we;Jtpl;lhh;. Mfnt mtUf;F ghj;jpakha; ,Ue;j bkhj;jr; brhj;Jf;fis thjpfSk; mtuJ rnfhjhpfSk; thhpR Kiwapy; ghj;jpak; mile;jdh;. gpd;dh; thjpfspd; FLk;gj;jpy; Vw;gl;l ghf Vw;ghl;oy; thjpfspd; rnfhjhpfSf;F ntW brhj;J xJf;fg;gl;lJ. jhthr; brhj;J thjpfspd; ghfj;jpjw;F xJf;fg;gl;lJ. thjpfspd; jhthr; brhj;jpid bkhj;jkhf itj;J nky;g[wk; xU gFjpapYk; tlg[wk; xU gFjppapYk; fy;J}z;fs; Cd;wp fk;gptiy ntyp milj;J mDgtk; bra;J tUfpd;wdh;. i\ brhj;J ej;jk; rh;nt vz; 224/1> 224/19 vd cl;gphpt[bra;agl;L ,e;j thjpfSf;F Tl;lhf gl;lh tHq;fg;gl;oUf;fpwJ. i\ gl;lh khWjy; cj;jut[th.rh.M.4 MFk. mt;thwhf jhthr; brhj;Jf;fs; ej;jk; rh;ntapy; rh;nt bra;ag;gl;Ls;s nghjpYk; i\ brhj;jpy;];jyj;jpy; tPl;lo epykhf ,y;yhky; g[Q;ir epykhfnt mDgj;jpy; ,Ue;J tUfpwJ mjidf; fhl;lf;Toa ej;jk; epythp jpl;l J}a rpl;lh efy; th.rh.M.5 MFk;. The respondents/plaintiffs have also produced a Chitta issued by the Zonal

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Deputy Tahsildar, Ramanathapuram, wherein the classification of the suit properties is mentioned as “Natham” in the relevant column. However, the respondents/plaintiffs have valued the suit for the purpose of payment of court fee on the basis of thirty times the kist payable. According to the petitioner, since the suit is one for declaration of title with a consequential relief of permanent injunction, the respondents/plaintiffs ought to have paid the court fee in accordance with Section 25(b) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955. The petitioner further contended that since the suit was instituted in the year 2012, the applicable provisions of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955, as they stood at the relevant time, had to be considered. According to the petitioner, under Section 7(2)(a) of the said Act, valuation on the basis of thirty times the assessment is applicable to ryotwari lands. Where the land is classified as ryotwari land, the plaintiff is required to pay court fee on the basis of thirty times the land assessment. In other cases, including house sites and lands not falling within the relevant statutory category, the court fee is payable on the market value of the property, in accordance with the applicable provisions of the Act. According to the petitioner, the suit properties are classified as “Natham” in the revenue records and therefore, cannot

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automatically be treated as ryotwari lands for the purpose of valuing the suit on the basis of thirty times the kist. Though the properties are described as Natham lands in the revenue records, they have been described as “punja” lands in the schedule to the plaint. The petitioner further contended that the suit properties are vacant house sites and that their market value ought to have been taken into consideration for the purpose of determining the court fee payable. The petitioner also pointed out that in another suit in O.S No.104 of 2012, the suit properties therein had been valued on the basis of their market value, which exceeded Rs.30,00,000/-. Therefore, according to the petitioner, the suit properties in the present proceedings had been undervalued and the court fee paid was insufficient. On these grounds, the petitioner filed an application under Order VII Rule 11(b) of the Code of Civil Procedure, 1908 (hereinafter referred to as “the CPC”), seeking rejection of the plaint on the ground of improper valuation and consequent lack of pecuniary jurisdiction of the learned District Munsif Court, Ramanathapuram.

3.The learned counsel appearing for the petitioner relied upon Order VII Rule 11(b) CPC, which reads as follows:-

> “***11.Rejection of plaint****.—The plaint shall be*

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rejected in the following cases:—

(a)...

(b)where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;"

4.The learned counsel also relied upon Section 12(2) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955, which reads as follows:-

*"**12. Decision as to proper fee in other Courts**.-*

(2)Any defendant may, by his written statement filed before the first hearing of the suit or before evidence is recorded on the merits of the claim but, subject to the next succeeding sub-section, not later, plead that the subject-matter of the suit has not been properly valued or that the fee paid is not sufficient. All questions arising on such pleas shall be heard and decided before evidence is recorded affecting such defendant, on the merits of the claim. If the Court decides that the subject-matter of the suit has not been properly valued or that the fee paid is not sufficient, the Court shall fix a date before which the plaint shall be amended in accordance with the Court's decision and the deficit fee shall be paid. If the plaint be not amended or if the deficit fee be not paid within the time

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allowed, the plaint shall be rejected and the Court shall pass such order as it deems just regarding costs of the suit."

5.The learned counsel for the petitioner further relied upon the judgment of the Hon'ble Supreme Court in ***S.N.S.Sukumaran Vs. C.Thangamuthu,*** reported in **2012 (5) CTC 705**, wherein, in paragraph 31, the following principles were laid down:-

"31.After giving our anxious consideration to the matter and having regard to the law discussed hereinabove, the reference is answered as under:—

(1)The Tamil Nadu Court Fees and Suits Valuation Act, 1955 (Section 12), enacted by the State Legislature on a subject covered by the Concurrent List, albeit inconsistent with the provisions of the Code of Civil Procedure (Order XIV, Rule 2) and being in compliance with the requirement of Article 254 of the Constitution of India, having been given assent by the President of India, shall prevail over the provisions of the Code of Civil Procedure.

(2)When a defendant comes forward with a case pleaded in the written statement questioning the

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correctness of the valuation of the suit property and payment of court fee and asks the Court, by an application, to decide it first before deciding the suit on merits, then a duty is cast upon the Court under Section 12(2) of the State Act to first decide the objection before deciding the suit on merits.

(3)However, before proceeding to decide the objection with regard to valuation and court fee as provided under Section 12(2) of the State Act, the Court shall prima facie satisfy itself, on perusal of the pleadings of the parties and the materials brought on record, that the objection raised by the defendant has substance.

(4)Such objection with regard to improper valuation of the suit and insufficiency of court fee shall be entertained by the Court only before the hearing of the suit on merits commences and witnesses are examined. Section 12(2) of the State Act makes it clear that such objection shall be heard and decided before evidence is recorded on the merits of the case.

(5)Exercise of right by the defendant as contained in Section 12(2) of the Act must be bona fide and not with an ulterior motive of dragging the suit on this issue. Hence, the Court shall not grant unnecessary adjournments in hearing of such

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application, and in the event the Court finds that the defendant is not diligent or co-operating with the Court in the disposal of such objection expeditiously, then the Court shall proceed with the hearing of the suit on merits and decide all issues, including the one relating to the valuation of the suit and the adequacy or otherwise of court fee, together."

6.The learned counsel for the petitioner further submitted that the earlier application filed by the petitioner challenging the valuation of the suit and the sufficiency of the court fee had been dismissed by the trial Court. Aggrieved by the same, the petitioner preferred C.R.P(MD)No. 817 of 2019 before this Court. By order, dated 10/12/2021, this Court set aside the order passed by the trial Court and remitted the matter to the trial Court with a specific direction to consider the issue relating to the classification of the land in question. This Court had further directed that after determining the classification of the land, if it was found that the value of the property exceeded the pecuniary jurisdiction of the learned District Munsif Court, Ramanathapuram, the plaint should be returned to the respondents/plaintiffs for presentation before the competent Court,

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after affording them an opportunity to pay the requisite court fee. This Court also directed that the said exercise be completed within one month from the date of receipt of a copy of the order.

7.According to the petitioner, notwithstanding the specific directions issued by this Court, the trial Court once again dismissed the application on the ground that the petitioner had failed to produce sufficient documents and had not examined any witness. The trial Court further observed that, on the basis of Exs.P1 to P3, it was unable to arrive at any conclusion regarding the classification of the suit properties.

8.The learned counsel for the petitioner also contended that the aforesaid finding was erroneous and contrary to the directions issued by this Court. It is further submitted that in O.S No.104 of 2012, a Commissioner had been appointed, who had submitted a report and sketch in I.A No.623 of 2012. According to the petitioner, the Commissioner's report clearly indicated that the properties in question constituted house sites containing several constructions and houses.

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9.The learned counsel further submitted that the question of court fee ought to have been decided at the earliest stage of the proceedings, before evidence was recorded on the merits of the suit. However, instead of conducting the necessary enquiry and deciding the issue, the trial Court had directed the respondents/plaintiffs to pay the court fee and thereafter dismissed the application without properly considering the earlier directions issued by this Court or the provisions of Section 12(2) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955.

10.It is also contended that Section 19 of the said Act empowers the Court to conduct an enquiry to determine whether the subject matter of the suit has been properly valued and whether the court fee paid is sufficient. The Court is further empowered to issue a commission to a competent person to undertake such local or other investigation as may be necessary and to submit a report. According to the petitioner, the trial Court failed to exercise the powers conferred upon it under Section 19 and dismissed the application without undertaking the requisite enquiry.

11.In support of the above contentions, the learned counsel for the petitioner relied upon the judgment of this Court in ***Chidambara***

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Suriyanarayanan @ Karuppan and another Vs. Ankaiyarkanni and others, reported in **(2009) 7 MLJ 202**, wherein, in paragraphs 18, 19, 24 and 25, the following observations were made:-

> *"18.Tamil Nadu Court Fees and Suits Valuation Act, 1955 dealing with determination of market value of immovable property for the purpose of computing the Court fee in suit relating to the property. Under Section 7(2) of TNCF & SV Act, the market value of the land in suits under Sections 25(a), 25(b), 27(a), 29, 30, 37(1), 37(3), 38, 45 or 48 shall be deemed to be where the land is assessed, thirty times the survey assessment on the land and where the land is a house site whether assessed to full revenue or not, poramboke land, or any other land not falling under clause (a), its market value. Under Section 25(a), where the prayer is for a declaration and for possession of the property to which the declaration relates, fee shall be computed on the market value of the property or on Rs.300/- whichever is higher.*
>
> *19.Under Section 7(2)(g) of TNCF & SV Act, where the land is a house-site whether assessed to full revenue or not, poramboke land, or is land not falling under clause (a), Court fee is payable on its market*

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value.

20.The main question falling for consideration is when the defendants have filed an application for rejection of the plaint under Order 7, rule 11(b) C.P.C, whether Court was right in calling for the guideline value for determining the market value of the suit properties. Under Section 19 of TNCF & SV Act, whenever a Court entertains a doubt regarding valuation, it is empowered to appoint an advocate commissioner for assisting the Court in finding out the value. Section 19 of TNCF & SV Act reads as follows: —

'19.Inquiry and commission.—For the purpose of deciding whether the subject matter of a suit or other proceedings has been properly valued or whether the fee paid is sufficient the Court may hold such inquiry as it considers proper and may, if it thinks fit, issue a commission to any proper person directing him to make such local or other investigation as may be necessary and to report thereon to the Court.'

25.When the Court appoints an Advocate Commissioner for assisting the Court in finding out the value, the question as to who has to pay the

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commissioner's fee. In such circumstances, it would be appropriate to direct the plaintiff to pay the cost though the Commissioner might not have been appointed at his instance."

12.On the above grounds, the learned counsel for the petitioner prayed that the impugned order passed by the trial Court is liable to be set aside and the civil revision petition is to be allowed.

13.Per contra, the learned counsel appearing for the respondents submitted that the scope of Order VII Rule 11 CPC is limited and that a plaint can be rejected only on the grounds specifically enumerated therein. In cases involving alleged insufficiency of court fee, the Court is required to afford the plaintiff an opportunity to rectify the deficiency before resorting to rejection of the plaint.

14.The learned counsel further relied upon Section 12(2) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955 and submitted that where the defendant raises an objection in the written statement regarding

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improper valuation of the suit or insufficiency of the court fee, the Court is required to frame an appropriate issue and decide the same at the earliest stage of the proceedings. According to the learned counsel, the trial Court ought to have framed a preliminary issue regarding the valuation of the suit and the sufficiency of the court fee before proceeding with the trial on the merits.

15.It is further submitted that if the Court concludes that the suit has not been properly valued or that the court fee paid is insufficient, the plaintiff must be afforded an opportunity to amend the plaint and pay the deficit court fee within the time fixed by the Court. Only if the plaintiff fails to comply with such a direction can the plaint be rejected in accordance with law. It is also further submitted that in the event of the trial Court arriving at a conclusion, upon such enquiry, that the court fee paid was insufficient, the respondents/plaintiffs may be granted reasonable time to make good the deficit court fee. In view of the aforesaid submissions, the learned counsel prayed for the dismissal of the Civil Revision Petition.

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16.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.

17.It is true that under Section 12(2) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955, a defendant may, by filing a written statement before the first hearing of the suit or before evidence is recorded on the merits of the claim, subject to the succeeding sub-section, raise an objection that the subject matter of the suit has not been properly valued or that the court fee paid is insufficient. The provision further mandates that such an objection shall be heard and decided before evidence is recorded on the merits of the case.

18.In the present case, the petitioner has specifically challenged the valuation of the suit and the sufficiency of the court fee on the ground that the suit properties are Natham house sites and not agricultural or ryotwari lands. In support of the objection, the petitioner has also relied upon the revenue records referred to in the plaint itself, wherein the classification of the suit properties is stated to be “Natham”. However, instead of framing an appropriate preliminary issue and conducting an enquiry into the classification of the suit properties and the consequent

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valuation thereof, the trial Court dismissed the application on the ground that the petitioner had failed to produce sufficient documents to substantiate the objection.

19.The trial Court proceeded on the footing that the petitioner had failed to mark the necessary documents in support of the objection and that neither party had adduced evidence or produced sufficient documentary material to establish the classification of the suit properties. In the facts and circumstances of the present case, such an approach cannot be sustained.

20.Section 19 of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955, expressly empowers the Court, for the purpose of determining whether the subject matter of a suit or other proceeding has been properly valued or whether the court fee paid is sufficient, to hold such enquiry as it considers proper. The provision further empowers the Court, if it considers it necessary, to issue a commission to a competent person to undertake such local or other investigation as may be required and to

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submit a report thereon. Thus, when an objection regarding the valuation of the suit and the sufficiency of the court fee is raised and the materials available on record disclose a prima facie basis for such objection, the Court is required to undertake an appropriate enquiry and arrive at a reasoned conclusion. The burden cannot be placed entirely upon the objecting defendant to establish the relevant facts when the statute itself empowers the Court to conduct the necessary enquiry.

21.In the present case, the classification of the suit properties assumes significance in determining the applicable basis of valuation and the consequent court fee payable. The mere description of the properties as “Natham” in the revenue records, or as “punja” in the plaint schedule, would not, by itself, dispense with the necessity of examining the relevant records and determining the appropriate statutory basis for valuation. Therefore, the trial Court ought to have conducted an appropriate enquiry into the classification and valuation of the suit properties. For this purpose, the trial Court may consider the relevant revenue records, including those pertaining to the year 2012, together with the documents already available on record. The parties shall also be afforded an

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opportunity to produce such additional documents as may be relevant to the issue. If necessary, the trial Court may permit the parties to adduce evidence in accordance with law.

22.It is also relevant to note that by the earlier order, dated 10/12/2021 passed in C.R.P(MD)No.817 of 2019, this Court specifically directed the trial Court to determine the classification of the suit properties and if the value thereof exceeded the pecuniary jurisdiction of the learned District Munsif Court, Ramanathapuram, to return the plaint for presentation before the Court having jurisdiction, after affording the plaintiffs an opportunity to pay the requisite court fee. Therefore, the trial Court is bound to consider the objection in accordance with the directions issued by this Court. However, the impugned order does not disclose that the requisite enquiry into the classification and valuation of the suit properties was undertaken in compliance with the said directions.

23.In view of the specific directions issued by this Court in the earlier Civil Revision Petition, the trial Court ought to have examined the relevant revenue records and other materials, determined the applicable basis of valuation and thereafter decided the question of sufficiency of the court fee and the consequential issue of pecuniary jurisdiction.

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24.In the light of the foregoing discussion, this Court is of the view that the impugned order, dated 14/07/2023 passed in I.A No.191 of 2016 in O.S No.121 of 2012 on the file of the learned District Munsif Court, Ramanathapuram, cannot be sustained and is liable to be set aside. Accordingly, the impugned order is set aside and the learned District Munsif, Ramanathapuram, is directed to frame a preliminary issue under Section 12(2) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955, regarding the proper valuation of the suit and the sufficiency of the court fee paid and to decide the same after conducting an appropriate enquiry in accordance with law. The trial Court shall consider the documents already available on record and afford both parties an opportunity to produce such additional relevant documents as may be necessary. The trial Court may also call for the relevant revenue records, including the records pertaining to the year 2012 and if necessary, appoint a Commissioner in accordance with Section 19 of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955, to undertake the requisite local or other investigation and submit a report. The aforesaid exercise shall be completed within a period of one month from the date of receipt of a copy

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of this order. If, upon such enquiry, the trial Court finds that the suit has not been properly valued or that the court fee paid is insufficient, it shall pass appropriate orders in accordance with law, including granting the plaintiffs an opportunity to rectify the valuation and pay the deficit court fee within the time fixed by the Court. If the valuation of the suit properties is found to exceed the pecuniary jurisdiction of the trial Court, the question of returning the plaint for presentation before the competent Court shall be dealt with in accordance with law and the directions issued in the earlier Civil Revision Petition.

25.With the above observations and directions, this Civil Revision Petition is **allowed**. No costs. Consequently, connected Miscellaneous Petition is closed.

Index:Yes/No 26/10/2026

Internet:Yes/No

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To,

1.The District Munsif Court,
Ramanathapuram.

2.The Section Officer,

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VR/ER Section,
Madurai Bench of Madras High Court,
Madurai.

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