

(2007) 11 MAD CK 0215

In the Madras High Court

Case No : C.R.P. (PD) No. 150 of 2006 and C.M.P. No. 1210 of 2006

U. Chinnachamy Pillai (Died) (C. Paramasivan, O.C.
Ravichandran and B. Vijayalakshmi)

APPELLANT

Vs

The State of Tamil Nadu and The Divisional Engineer
(Highways and Rural Works)

RESPONDENT

Date of Decision : 13-11-2007

Acts Referred:

Tamil Nadu Court Fees and Suits Valuation Act, 1955 — Section 25

Citation : (2007) 11 MAD CK 0215

Hon'ble Judges : G. Rajasuria, J

Bench : Single Bench

Advocate : K. Bhaskaran, for the Appellant; So. Paramasivam, A.G.P., for the Respondent

Judgement

G. Rajasuria, J.—This petition is focussed as against the order dated 01.12.2004 passed in O.S. No. 120 of 2004 by the learned I

Additional District Munsif, Dindigul and the order dated 22.09.2005 passed in O.S. No. Nil of 2005 by the learned Principal District Judge,

Dindigul.

2. Heard both sides.

3. A resume of facts absolutely necessary for the disposal of this petition would run thus:

The petitioner filed the suit for declaration and for injunction relating to the property described in the schedule of the plaint. It appears, initially, it

was numbered as O.S. No. 297 of 1997 in the Court of Principal Sub Court, Dindigul. Thereupon, on the point of jurisdiction, it was sent to the

Court of I Additional District Munsif Court, Dindigul wherein it was renumbered

as O.S. No. 120 of 2004. It appears, once again, it was re-transferred to the District Judge and now it is pending. It appears, a cheque slip No. 283/XXVI/S was issued calling upon the plaintiff to pay Court fee on the value of Rs. 24 lakhs as the Court took exception to the methodology adopted by the plaintiff in invoking Section 50 of the Court Fees Act and paying a Court fee of Rs. 200/- instead of valuing the relief u/s 25(b) of the Tamil Nadu Court Fees Act and paying the requisite court fee accordingly.

4. Being aggrieved by and dissatisfied with, such direction, this revision is focussed on the main ground that no opportunity was given before calling upon the plaintiff to pay such huge amount of Court fee on Rs. 24,00,000/- (Rupees Twenty Four Lakhs only).

5. The point for consideration is as to whether the procedure adopted by the Court below is proper and in accordance with law?

6. The learned Counsel for the petitioner would argue that no opportunity was given to explain to the Court about the real value of the suit property concerned, but arbitrarily the Court directed the plaintiff to pay the Court fee on the value of Rs. 24 lakhs which according to the Court, is the market value of the subject matter of the suit.

7. Perused the order of the learned Principal District Judge, Dindigul. There is no clarity in the order as the order states as though the value of the property is Rs. 24 lakhs, as per Amein's valuation. u/s 25(b) of the Tamil Nadu Court Fees Act, the Court could call upon the plaintiff to pay court fee on one half of the market value and not on the entire value of the suit property. But, the impugned order states as though on the entire market value, the Court fee should be paid. De hors that one other flaw also has been brought to the notice of this Court by the learned Counsel for the petitioner that no opportunity was given to the plaintiff before ordering so.

8. Simply based on Amein's valuation, the Court cannot act; if at all, there is any genuine doubt about the value of the suit property, it is open for the Court to probe into it. Whatever be the circumstances, opportunity should be given to the petitioner/plaintiff by calling upon him to make representation or adduce evidence in that regard. Without resorting to any such procedure, simply such order was passed.

9. Hence, in these circumstances, I am having no hesitation to set aside the

impugned order and remit back the matter to the learned Principal

District Judge, to adhere to the procedures referred to supra. After giving opportunity adhering to the principle of "audi alteram partem", to the

petitioner to make representation and produce evidence relating to the actual value of the property, let the matter be decided. Accordingly, this

Civil Revision Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.