

**IN THE COURT OF THE ADDL. CIVIL JUDGE & JMFC, AT
BANGARPET.**

PRESENT:- Sri. MARIYAPPA, BA. LL.B.,
Addl. Civil Judge & JMFC, Bangarpet.

Dated this the 25th day of January 2017

O.S. 194/2008

Plaintiff

H.S. Aswathanarayana Shastry
and others
(By Sri. KJR Adv.)

Defendant

V/s H.S. Subbaraya Shastry
and others
(By Sri. LNR Adv.)

**ORDER ON VALUATION OF SUIT SCHEDULE
PROPERTIES AND COURT FEE**

The counsel of the defendants raised the objection and submitted that, on the 1st date of hearing itself the case was posted for hear on court fee. Because the office has put objection on the court fee paid by the plaintiff. Since the suit schedule properties are landed properties are includes vacant site. Therefore the plaintiffs have to valued the suit properties on the basis of actual market value of the suit schedule properties. But the plaintiffs have failed to value the suit schedule properties as per the actual market value of the suit schedule properties. Therefore the plaintiff has not value of the suit schedule property on this ground only. The plaint of the plaintiff

is to be returned to the plaintiff. On the other hand the counsel for the defendant in his argument submitted that, whatever valuation made by the plaintiff is in proper. Since the suit schedule property is landed property. There is no need for value the suit schedule property on the basis of actual market value of the plaintiff schedule properties.

2) On the rival contentions of both the counsels the point arises for court consideration;

1. Whether the plaintiffs have correctly valued the suit schedule properties for the purpose of jurisdiction and court fee?

3) My findings to the above point is in the negative for the following ;

REASONS

4) Point No. 1 :- The plaintiffs brought the present suit for the relief of declaration of their title over the suit schedule property and consequential relief of permanent injunction restraining the defendants from interfering with the plaintiffs possession and enjoyment of the suit schedule property either by themselves or through their friends, agents, servants etc. On there hand the defendants resisted the suit of the plaintiff by filing their written statement wherein they denied the entire

plaint averments. On 6-08-2008 the case is set down for to hear on court fee and consequentially the suit summons were issued to the defendants and they appeared through their counsel and contested the suit of the plaintiff and now the counsel for the defendants in his argument submitted that, since the suit schedule property consists a site. Therefore the plaintiffs ought to valued the suit schedule property on the basis of actual market value of the schedule property. On the other hand the counsel for the plaintiff submitted that, the valuation made by the plaintiffs is in proper. There is no need to the plaintiff to value the suit on the actual market value of the suit schedule property.

5) On perusal of plaint schedule it appears that, the plaintiff shown the schedule as Sy. No. 292/3 to an extent of 28 guntas assessed on Rs. 1:05 paise situated at Hudukula Village, Kasaba Hobli, Bangarpet Taluk consists of vacant site and also ½ portion of stone roofed and ½ portion of Mangalore tile roofed house with Neelagiri trees. On perusal of the plaint at para No. 6 it appears that, the schedule property consists ½ floor mill and Rise mill and also vacant site attached to floor mill and Rise mill to its entire extent and also ½ portion stone roofed and ½ portion of Mangalore tile roofed house as Neelagiri trees. The

plaintiff No. 1 regarding to show the acquisition of the property relied on release deed dated: 21-08-1975. The counsel for the plaintiff in his argument submitted that, the valuation shown by the plaintiff is to be considered and not the objection or contention of the defendant. On perusal of the plaint schedule and also contents of the plaint it appears that, the plaint schedule property though it is landed property. But the schedule property consists a floor mill, Rise mill, Stone roofed house, Mangalore tile roofed house and also vacant site attached to the floor mill. The plaintiff valued the suit schedule property as per section 24(b) R/w Sec. 7 of Karnataka Court Fee and Suit Valuation act. The subject matter of the suit for the purpose of court fee and jurisdiction valued for Rs. 2,000/-. As admitted by the plaintiff they brought the suit for the relief of declaration of their title over the suit schedule property. Therefore they are bound to value the subject matter for the purpose of jurisdiction on the basis of actual market value and not yet its deemed marked value as contemplated in section 7(2) of the Karnataka Court Fees and Suit Valuation Act. In this regard it is necessary to rely the judgement of Hon'ble High court of Karnataka reported in ILR 2004 KAR 3350 wherein his lordship held that,

(B) KARNATAKA COURT FEE AND SUITS VALUATION ACT 1958- Sec. 7 AND 50- HELD –(i) In case of Agricultural lands the court fee has to be paid on the basis 25 times the value of the land revenue, U/Sec. 7(ii) for the purpose of pecuniary jurisdiction, the suit is to be valued on the basis of actual market value U/Sec. 50 of the act.

6) In the present suit the plaintiff valued the subject matter of the suit schedule properties as per section 24(b) R/w sec. 7(2) of Karnataka Court Fees and Suit Valuation Act it is pertinent to note here that, when the plaintiffs sought the comprehensive relief of declaration of their title over the suit schedule property they bound to value the suit schedule property as per the principle laid down by the Hon'ble High Court of Karnataka in the above said citation and the plaintiffs are to be valued the suit schedule property on the basis of actual market value as per section 50 of KCF and SV act.

7) There is a distinction between valuation for the purpose of Court Fee and for the purpose of pecuniary jurisdiction. In the present suit the plaintiffs have valued the suit schedule

properties as per U/s 24(b) R/w Sec. 7 of KCF and SV act and have not valued the suit schedule property for the purpose of pecuniary jurisdiction as per the section 50 of the KCF and SV act. Regarding landed property is concern the valuation made by the plaintiff is in proper. But in respect of floor mill, Rise mill, Stone roofed house, Mangalore tile roofed house and also vacant site is concern, the plaintiffs have ought to value the suit schedule property on its actual market value and not on deemed market value. Hence in my considered opinion the plaintiffs have ought to value the suit schedule properties as per the section 50 of the KCF and SV act for the purpose of pecuniary jurisdiction and they have to be furnish the fresh valuation slip. As the result above point is answered in the negative and bellow order is passed.

ORDER

The plaintiffs are hereby directed to furnish fresh valuation slip and pay the proper court fee on fresh valuation within twenty days from this order.

No order as to costs.

(Dictated to the stenographer transcribed by her, corrected by me and then pronounced in the open court on this the 25th day of January 2017.)

(MARIYAPPA)
Addl. C.J. & JMFC., Bangarpet.