

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: Tmt. V. Vannamalar, M.L., PGDIPR., PGD in CrI. & Fr.Sc.,
District Munsif, Ponneri.

Thursday, the 26th day of September 2024.

IA No. 2 OF 2023
IN
O.S. NO.4 OF 2013

1. S.R.Mohan
2. U.Hemalatha

.....Petitioners/Defendants 8 & 9

Versus

1. P.Kumar
2. P.Kannan
3. K.Krishnamurthy @ Radhakrishan
4. Ravi
5. Panneer
6. G.Baskar
7. G.Govindaraj
8. G.Duraibabu
9. G.Nanthini
10. Jeyanthi
11. Padamavathi
12. S.Thirumalai
13. S.Sanathanam
14. S.Kannian
15. S.Vijayalakshmi
16. Rajesh Kanna
17. S.Sushila

.....Respondents 1 to 10/Plaintiffs

.....Respondents 11 to 17/defendants 1 to 7

This petition came up before me on 04.09.2024 for final hearing in the presence of Mr.N.R.Rangarajan, learned counsel for the petitioners/Defendants 8 and 9 and Mr.T.Kumar, learned counsel for the Respondents 1 to 10/plaintiffs and Mr.Chitarasu, learned counsel for the Respondents 13 to 15 and 17. Respondents 11, 12 and 16 were set exparte in suit and hence notice to them in this petition is dispensed with. Upon hearing the arguments made by the learned counsels for the

petitioners and the respondents and on perusal of the material case records and having stood over for consideration till this day, this Court delivers the following:

ORDER

1. This application is filed under Order 7 Rule 11(b) and (c) and Section 151 of CPC to reject the plaint in OS No. 4 of 2013.

2. Brief averments of the affidavit filed by the petitioners are as follows:

The 2nd petitioner who is the 9th defendant in the suit files this affidavit on his behalf and on behalf of the 1st petitioner/8th defendant who is his father. The 2nd petitioner submits that the suit has been filed for partition of the suit properties on the basis of joint possession of the said properties. The 2nd petitioner states that the suit for the purpose of court fee ought to have been valued under section 37(2) of Court Fees and Suit Valuation Act on the basis of the actual market value of the suit properties on the date of the suit. On the date of suit, the suit properties are of the market value of Rs.20,000/- per cent and total market value of of the suit properties comes to Rs.30,60,000/-. As such the suit properties have been grossly under valued to evade payment of court fees. Even as per the guideline value as provided by the Government, the suit properties on the date of suit was of the value of Rs.30,60,000/- at the rate of Rs.20,00,000/- (Twenty lakhs) per Acre. As such the suit has not been properly valued and the court fee paid is not correct and the plaint is liable to be rejected. If the plaint is properly valued, this case will be beyond this court's pecuniary jurisdiction and on that ground also the plaint is to be rejected. Hence this petition to reject the plaint has been filed.

3. Brief averments of the counter filed by the respondents 1 to 10 are as follows:

3.1. The 9th respondent / 9th plaintiff submits this counter on her behalf and on behalf of other plaintiffs. The 9th respondent submits that the plaintiffs have filed the above suit on 21.12.2012, praying for partition and separate possession as against the

defendants 1 to 9 and paid court fees under section 37(2) of the then Tamil Nadu Court Fee and Suit Valuation Act, 1955.

3.2. The 9th respondent submits that the petitioners have tried to mislead the court by alleging that the suit for the purpose of court fee ought to have been valued under section 37(2) of court fees Act on the basis of actual Market value of the suit properties on the date of the suit. The petitioners' contention that the value of the suit is to be ascertained is with respect to market value of the property is not correct. To protract the suit proceedings, this petition has been filed without any base. In this case, the plaintiffs have valued the suit under section 37(2) and have paid the court fee as per the rate specified in the said section. The 9th respondent further states that the question of market value of the suit properties does not arise when suit has been filed for partition based on joint possession of the properties. Hence this petition is liable to be dismissed.

4. Brief averments of the counter filed by the respondents 13 to 15 and 17 are as follows:

The Thirteenth respondent submits his counter on his behalf and on behalf of respondents 14, 15 and 17. The 13th respondent has reiterated the same facts and contentions as stated by the respondents 1 to 10 in their counter and prays to dismiss the petition.

5. The Respondents 11, 12 and 16 were set exparte in the suit and hence notice to them in this petition is dispensed with.

6. On the side of the petitioners, Exhibits P1 was marked and no oral evidence was let in. On the side of the respondents no oral or documentary evidence was submitted before this court. Now, it is the paramount duty of the court to decide whether this petition is to be allowed or not.

7. Heard both sides. Records Perused.

8. It is well settled principle of law that for rejection of a plaint under Order VII Rule 11 of CPC, the court can look into only the plaint and plaint documents. The merits of the pleadings and the averments in the written statement cannot be considered and no amount of evidence can be looked into at this stage. The plaint may be rejected only on satisfaction of anyone of the grounds mentioned in Order VII Rule 11 of CPC. In consideration of these dictums, this court perused and dealt with the contentions of both the parties in the case.

9. The plaintiffs have filed this suit for partition of the suit properties, which are agricultural land based on joint possession of the same and for allotment of 3/4th share in the same to them and have valued the suit on the market value of the suit property at Rs.500/- per cent under section 37(2) of the TN Court Fees and Suit Valuation Act. When the suit is pending for cross examination of PW1, this petition has been filed by the petitioners, who are defendants 8 and 9 in the suit stating that on the date of suit, the suit properties are of the market value of Rs.20,000/- per cent and total market value of the suit properties comes to Rs.30,60,000/- and that the suit has been under valued and thus the plaint is liable to be rejected. The petitioners have also submitted Exhibit P1, an online print out of the guideline value of the suit properties for the period from 01.04.2012 to 08.06.2017 to evidence the same. But the petitioners have not submitted any certificate under the Evidence Act to ensure its authenticity and reliability.

10. On the other hand, the respondents submit that they have valued the suit properly and that this petition has been filed only to protract the suit proceedings.

11. On careful analysis of the above, this court finds that in the schedule of properties in the plaint kist value is given for the suit properties. For the S.No. 526/2A, the kist value is given as Rs.4.06 paisa and for the S.No. 526/2B, the kist value is given as Rs.2.00 paisa. The suit has been valued for 3/4th share of the plaintiffs in the suit properties at Rs. 57,375/- under section 37(2) of the TN CF and

SV Act by keeping the value for 1 cent at Rs.500/-. On the date of filing of the suit i.e., in the year 2013, under section 7 of the Court Fees Act, if the suit properties are assessed to land revenue, 30 times the kist value of the suit properties can be taken as the value of the suit. Based on the kist value given in the plaint , if we calculate the value of the suit, the same comes much lesser to the current valuation of the suit. The correctness of the kist value of the suit properties given in the plaint can be determined only after detailed evaluation of evidence and thus this court views that a fair opportunity ought to be granted to both the parties to let in their oral and documentary evidence to substantiate their side of the case before deciding the case on merits.

12. In the above circumstances, this court is not inclined to allow this petition and considering the facts and circumstances of the case, this court is of the considered view that the parties shall bear their own costs.

13. In the result, this Petition is dismissed. No costs.

Dictated to the steno-typist, typed directly by her in the desktop, corrected and pronounced by me in the open Court on this the 26th day of September 2024.

DISTRICT MUNSIF,
PONNERI.

List of witnesses on the side of the petitioners :- NIL

List of documents on the side of the Petitioners:-

Exhibits	Date	Description of Documents
Exhibit P1	--	Online print out of the Guideline value and property valuation from 01.04.2012 to 08.06.2017

List of witnesses and Exhibits on the side of the respondents: Nil

DISTRICT MUNSIF,
PONNERI.

Fair/ Draft Order
I.A.No.02/2023
O.S.No.04/2013
Date:26.09.2024
DMC,PNI.