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Court : Chennai

Decided On : Jun-30-1971

Reported in : AIR1972Mad5; (1971)2MLJ205

Judge : Maharajan, J.

Acts : Madras Court-fees and Suits Valuation Act, 1955 - Sections 40, 40(1) and 50

Appeal No. : Civil Revn. Petn. No. 2167 of 1968

Appellant : Andalammal

Respondent : B. Kanniah

Judgement :

ORDER

1. The petitioner, who was the plaintiff in the court below, instituted the suit for cancellation of a settlement deed executed by her on 11-5-1965 on the ground that it had been procured by fraudulent misrepresentation. In the settlement deed, she had valued the properties settled at Rs. 10,000. Taking this valuation as the basis, she paid a court-fee of Rs. 750-50 under Section 40(1) of the Madras Court-fees and Suits Valuation Act. The learned IX Assistant Judge, City Civil Court, Madras, upon a construction of Section 40(1) of the Act, held that in the case of document securing property having money value, the suit should be valued upon the market value of the property as on the date of the plaint, and not on the basis

of the value set out in the settlement deed. Accordingly, he directed the plaintiff to pay the deficit court-fee after furnishing the market value of the property as on the date of the plaint. It is against this direction that the plaintiff has preferred this revision petition. I think it fruitless to refer to the conflicting authorities cited at the Bar in support of either view; firstly because the ratio decided in each of the authorities cited must be confined to the facts of that particular case, and secondly because most of the authorities were concerned with interpreting the corresponding section in the earlier Act, which in certain respects was worded differently from Section 40 of the Madras Court-fees and Suits Valuation Act, 1955. The language of this section is reasonably plain and admits of no ambiguity. It runs as follows:

'In a suit for cancellation of a decree for money or other property having a money value, or other document which purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest in money, moveable or immoveable property, fee shall be computed on the value of the subject-matter of the suit, and such value shall be deemed to be-

if the whole decree or other document is sought to be cancelled, the amount or value of the property for which the decree was passed or other document was executed; if a part of the decree or other document is sought to be cancelled, such part of the amount or value of the property.'Excluding the words that have no application to a suit of the kind in question now, the section would read as follows:'In a suit for cancellation of other document which assigns any right, in immoveable, property, fee shall be computed on the value of the subject-matter of the suit, and such value shall be deemed to be--if the whole document is sought to be cancelled, the amount or value of the property for which the document was executed'.

2. It is important to mark the words 'the amount or value of the property for which the document was executed'. If the Legislature had said 'the amount or value of the property in respect of which the document was executed', it would be reasonable to hold that the basis shall be the market value of the property, regardless of what the document says it is. But as the section refers 'the amount or

value of the property for which the document was executed', the Legislative intent is clear that the basis for the purpose of valuation shall be the amount or value mentioned in the document itself. Evidently, the intention of the Legislature is that when a person seeks to cancel a document executed by himself, he shall pay court-fee upon the value which he has chosen to put upon the property in the document he seeks to cancel. The word 'value' ordinarily connotes the price set on a thing, and when the Legislature directs that the value of the subject-matter shall be deemed to be the amount of value of the property for which the document was executed. I see no warrant for ignoring the plain language of the section and holding that the value shall be the market value of the property. In fact, the Legislature has expressly used the words 'market value' in twelve other sections of the Act in contradistinction to the word 'value' used in Section 40(1) of the Act. I, therefore, hold that the court-fee paid by the petitioner upon the basis of the value of the property as given in the settlement deed is correct. The court below erred in calling upon her to pay court-fee upon the market value of the property as on the date of the suit. In the result, the direction of the court below is set aside, and the civil revision petition allowed. There will be no order as to costs.

3. Petition allowed.