

***HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO**
+ CIVIL REVISION PETITION No.5306 of 2015

% Dated 08.12.2015

Between:

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Syed Nazinnunnisa
...Petitioner/Plaintiff

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And

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\$ Syed Azmathullah **....Respondent**

! Counsel for the petitioner : Sri P.S.P.Suresh

^ Counsel for respondent : None

< GIST : ---

>HEAD NOTE : ---

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? Cases referred: :

- 1. 1994 Law Suit AP 387
2. AIR 1958 SC 245
3. AIR 1982-Kerala-304
4. 1959(2) An.W.R.238= ILR 1959 AP181

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This Civil Revision Petition is filed under Article 227 of the Constitution of India, by the petitioner who is the plaintiff in O.S.(SR) No.1383 of 2015 on the file of the learned Junior Civil Judge, Rajampet, praying to allow the revision by setting aside the orders dated 26.10.2015 passed by the learned Junior Civil Judge in the above said suit and also to direct the trial Court to number the suit.

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2. Heard the learned counsel for the petitioner before admission and before notice to the respondent and perused the material on record.

3. This petition is filed impugning the return of the unnumbered plaint

in OS(SR) No.1388 of 2015 by the learned Junior Civil Judge, Rajampet. The suit filed is for the reliefs of declaration of title in relation to BCDG property shown worth of Rs.3,63,000/- which is out of total extent for which valuation certificate obtained for Rs.1,68,43,200/- comprising of ABCDEFG. So the plaintiff's suit claim is for BCDG property and the value of the same is Rs.3,63,000/- arrived as per the valuation certificate obtained for larger extent than to the plaintiffs' suit extent. The Court Fee payable thereon for the relief of declaration of title with consequential relief of possession as per the Section 24(a) of the Andhra Pradesh Court Fee and Suit Valuation Act, 1956(for short, 'the Act') is on 3/4th market value of the property. The market value of the property referred supra, on its face is beyond three lakhs as on the date of filing of the suit. The contention is 3/4th market value amount of Rs.2,72,250/- of which Court fee payable comes to Rs.5226/-. Undisputedly, it is the same 3/4th market value of plaintiff's share to adopt for purpose of Court fee payable and for jurisdiction to determine on pecuniary limitations that what the Full Bench of the A.P.High Court in **Kalla Yadagiri Vs. Kotha Bal Reddy**^[1] stated referring to civil Courts Act Section 16 and A.P.Court Fees Act Section 50; in answering value for jurisdiction how to take is not the total value or total extent but of share of the plaintiff's claim or relief i.e. the relief plaintiff claims or the benefit the plaintiff derives or the loss the plaintiff averts as the case may be and for that purpose what first determine is the Court fee and then adopt the same for jurisdiction. In Yadagiri(supra) the Full Bench placed reliance on the expression of the Apex Court in **S.Rm.Ar.S.Sp.Sathappa Chettiar Vs. S.Rm.Ar.Rm.Ramanathan Chettiar**^[2] that "*----The result is that it is the amount at which the plaintiff has valued the relief sought for the purposes of court fees that determines the value for jurisdiction in the suit and to vice versa*". No doubt the Full Bench of Hon'ble Kerala High Court in **Pamban Kayakkar Valsalan Vs. Pamban Kayakkal Koumudi**^[3] laid down that even fixed Court Fees paid of Rs.200/- paid from plea of joint possession is a suit for partition,

the value for purpose of jurisdiction is the market value of the share claimed by the plaintiff/s out of the plaint schedule property. Thus it is neither on entire plaint schedule property value nor even on 3/4th market value of plaintiff's share. Even in **Devabhaktuni Venkatasubbamma Vs. Chadalavada Ramasheshamma** ^[4] -it was held that in a suit for partition not based on joint possession the Court Fees payable is on 3/4th of market value of plaintiffs' share u/sec.34 of the Act, whereas for purpose of jurisdiction u/sec.50(2) of the Act, it is based on market value of the plaintiff's share. However, once the Full Bench of this Court answered the issue in Yadagiri(supra) in the year 1999 and same is following by all Courts in the two States, there is nothing to unsettle the same much less to consider any request for reference to Full Bench, though the Kerala High Court Full Bench expression in Pamber(supra) speaks, value for purpose of jurisdiction is total value of plaintiff(s)' property claimed and not 3/4th value of such immovable property, but for to determine separately the value for Court Fees is either fixed or on half or 3/4th value of such property, as the case may be, for one is different to other on Court Fee value and jurisdiction value.

4. When the law is very clear, the valuation is below 3 lakhs, for 3/4th market value out of Rs.3,63,000/- to be taken for payment of Court Fee as well as jurisdiction. No doubt other values mentioned also under Section 26 of the Act. One is for permanent prohibitory injunction and the other is for permanent mandatory injunction at Rs.10,000/- each on the estimation by payment of Court fee of Rs.786/- respectively for each. Then the total value for purposes of jurisdiction is Rs.2,92,750/-. The Court got even under Section 26 of the Act, like under Section 24 (c) or (d) of the Act to ascertain the real value if necessary to enhance if not satisfied with the value and if found the same as utterly low, even before numbering that is not the objection before the trial Court. It is only saying how the Court got jurisdiction. No doubt, Point No.2 four objections raised on 26.10.2015 is not artistically worded by the concerned Bench clerk by checking nor corrected by the officer. What it pointed out is as if Court is not having

jurisdiction for payment of Court fees be on 1,68,43,200/- is not correct. As can be seen from the above, what the idea of the Court in return is for the value above 3 lakhs, how it got jurisdiction, but for the Senior Civil Judge before whom the suit is to be filed. No doubt, there are more than 4 returns and representations by not correctly meeting even in the representation much less by specifically directed to call at Bench for hearing to clear the cloud if any.

5. Having regard to the series of returns that resulted in impugning the same before this Court, thereby while clearing the same, the plaint is directed to be numbered if otherwise in order and if the estimated value of two injunction reliefs at Rs.10,000/- each is just and if not to revise. Even after revision if the total value does not exceed Rs.3 lakhs, the trial Court to number the same to decide and it exceeds Rs.3 lakhs to return under Order VII Rule 10 and 10-A of C.P.C. by fixing a date to present before the Senior Civil Judge's Court.

6. Accordingly, the Civil Revision Petition is disposed of with no costs. Miscellaneous petitions, if any, pending in this petition shall stand closed.

Dr. B.SIVA SANKARA RAO J,

Date:08.12.2015

Note: L.R.Copy to be marked.

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[1] 1994 Law Suit AP 387

[2] AIR 1958 SC 245

[3] AIR 1982-Kerala-304

[4] 1959(2) An.W.R.238= ILR 1959 AP181