

subject matter of the Suit exceeds the pecuniary jurisdiction of the Bombay City Civil Court.

3. A short background is necessary. The dispute pertains to part of the holdings of the Scindia family, the royal family of Gwalior. For several centuries, this was a prominent royal family possessed of very considerable holdings, both immovable and movable. The present action is concerned only with the movables. I do not think there is any possibility of a dispute or controversy that these movables are correctly described by the Plaintiffs as being beyond value: antiques, antiquities, heirlooms, imported artefacts, artworks and so on.

4. The Plaintiff No. 1A, Mr. S. Gurumurthy, claims to be an executor of a Will of the original Plaintiff, Rajmata Vijayaraje Scindia, the widow of late Jivajirao Scindia, the former Maharaja of Gwalior. There were two executors. The first was Sardar Sambhajirao Angre, distantly related to the Scindia family and said to have been close to Rajmata Vijayaraje; the second is Mr. Gurumurthy, a person of some repute in the fields of finance and journalism. The original Defendants were the children of the original Plaintiff, i.e, Jivajirao and Vijayaraje's son, Madhavrao, since deceased, three married daughters, and the children of another daughter who died before Vijayaraje Scindia.

5. Madhavrao died in a airplane accident; his son, Jyotiraditya Scindia; married daughter Chitrangada Raje Singh; and widow

Madhavi Raje Madhavrao Scindia, have been joined. They are the only ones opposing this application.

6. There are, of course, allegations and counter-allegations of collusion, but these are entirely irrelevant, in my view, to the present issue, one of transfer. I do not, for instance, see how the pecuniary jurisdiction of any Court can ever turn on an allegation of collusion.

7. Jivajirao died intestate. He had six heirs: the original Plaintiff, Rajmata Vijayaraje Scindia; their son, Madhavrao; and four daughters, Padma Raje, Usha Raje, Vasundhara Raje, Yashodhara Raje. Padma Raje died in the mid-1960's, and her heirs are joined.

8. Vijayaraje filed this suit seeking partition of the movables in Jivajirao's estate. There is annexed to this plaint, and there is also no doubt about this, a very long list of movables of which partition is sought: the list spans over 350 pages. Some of the items in the HUF list alone are individually in excess of Rs. 1 crore. The list includes objects big and small — glass and crystal chandelier, artworks (entire galleries of artworks), vases, paintings, crockery, cutlery, Victorian and Jacobine antique furniture, textiles and so on. It is impossible to put a value on each of these items. Some of them are, to put it simply, probably beyond any ready monetary reckoning. Vijayaraje said as much in her plaint and paid the full Court Fee then payable on this suit.

9. With the increase in the pecuniary jurisdiction of the Bombay City Civil Court, this Suit was transferred to that Court. The

Plaintiff then applied for a re-transfer to this Court. The Bombay City Civil Court apparently told the Plaintiff to make a necessary application before the Prothonotary & Senior Master, which is how the Plaintiff came to file Chamber Order No. 42 of 2015 in this Court.

10. Unusually in such matters, this Chamber Order was very heavily contested. I find from the record that before the Prothonotary & Senior Master, Defendants Nos. 1A and 2, i.e., Mr. Jyotiraditya and Madhavi Raje actually engaged Senior Counsel to appear for them, something that almost never happens. The Prothonotary's order is a 12-page order recording submissions on both sides.

11. I am unable to tell what possible objection the contesting Defendants could have had for re-transfer of the Suit. They appear to have contended that individual items were not valued; that the valuation of each item was not precisely stated; and, therefore, that there should be no transfer. The Prothonotary & Senior Master seems to have accepted this by saying:

“However, aforesaid issue with regard to valuation is required to be adjudicated only after Suit is valued for the purpose of court fees and jurisdiction by appropriate proceeding if taken out by the Plaintiff before the appropriate Court. In that view of the matter, Chamber Order is not tenable before me. Accordingly, I pass following:

ORDER

Chamber Order is rejected with no order as to costs.

Plaintiff to take out appropriate Application for amendment of plaint as per law before the appropriate Court.”

12. I must confess that I am unable to understand the precise purport of the operative portion of this order. When the Prothonotary says that the issue regarding valuation is to be adjudicated only after the Suit is valued by an appropriate proceeding before the appropriate Court, I have very little idea what is expected of the Plaintiff or, for that matter, me, assuming mine is the ‘appropriate Court’. What might be the form of those “appropriate proceedings”? Which might be the “appropriate Court”? I rather suspect this is a classic case of putting the horse before the cart. It is not the case of any of the Defendants that any part of this estate is less than Rs. 1 crore, the outer limit of the Bombay City Civil Court’s jurisdiction. Any such submission would have to be rejected out of hand as *ex-facie* untenable and bordering on the absurd. Nobody in his senses believes that this estate of movables is worth less than Rs. 1 crore. In all probability it runs into triple digit crores, very possibly more.

13. What the contesting Defendants seem to say is that this is all very well, but the Plaintiff must value every item. In short, the executor of an estate must engage in what is very likely a futile exercise in getting items valued although the original Plaintiff has paid the maximum *ad valorem* court fees on this Suit.

14. If it comes to question of convenience, there is a Testamentary Petition already pending in this Court regarding a later Will of the Plaintiff, Mrs. Vijayaraje Scindia and which is propounded by her daughters, Defendants Nos. 3 to 5. That trial is proceeding before me. At the same time, the executors who have now come in place propound an earlier Will in respect of which they have adopted proceedings in the Delhi High Court. Given all of this, I am unable to understand why anyone would think it more convenient to have this matter separated and kept in the Bombay City Civil Court, or why there should be such an objection.

15. I believe the Prothonotary & Senior Master lost site of the fact and may have materially misdirected himself on the question of valuation. In a matter such as this, it is not a question of seeing whether a specific number is mentioned in the Plaint. Regard must be had to the averments in the Plaint and the manner in which the claim is described. Seen from this perspective, and combined with the fact that nobody has questioned that the Plaintiff has paid the maximum *ad valorem* court fee on the Suit, there is no room for questioning the monetary valuation of the Plaint or of saying that it is less than Rs. 1 crore and, therefore, should remain with the Bombay City Civil Court. The Bombay City Civil Court cannot hear the Suit valued beyond its pecuniary jurisdiction. In any case, once it is seen on any reasonable interpretation of the Suit that the Suit is valued at an amount of more than Rs. 1 crore and that the estate sought to be partitioned cannot be reasonably be said to be of less than Rs. 1 crore, no question arises of allowing the Bombay City Civil Court to continue with that suit. That would be entirely without jurisdiction.

16. Having regard to these circumstances, the Chamber Summons is made absolute in terms of prayer clauses (a), (b) and (c). The delay in filing the Chamber Summons is condoned. The order dated 24th March 2015 passed by the Prothonotary & Senior Master of this Court is set aside. The Prothonotary & Senior Master is directed to immediately issue directions to re-transfer Suit No. 1861 of 1984 to this Court.

17. List the matter for compliance on 18th November 2016 on the supplementary board.

(G. S. PATEL, J.)