

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 5260 of 2015

ORDER:

The present Civil Revision Petition is filed assailing the order dated 30.10.2015 passed in I.A.No.408 of 2015 in O.S.No.14 of 2015 on the file of the VI Additional District Judge, Godavarikhani, wherein an application filed under Order VII Rule 11 of C.P.C. for rejection of the plaint on the ground of pecuniary jurisdiction was dismissed.

The facts in issue are as under:

The respondent/plaintiff filed O.S.No.14 of 2015 seeking recovery of possession, declaration of title and mandatory injunction in respect of plot admeasuring Ac.0.02 gts., ie. 242 square yards in Sy.No.675 situated at Markandeya Colony, Janagoan Village Sivar, Ramagundam Mandal, Karimnagar District. Pending the suit, defendant Nos.2 and 3 filed I.A.No.408 of 2015 to reject the plaint on the ground of pecuniary jurisdiction. It has been stated in the petition that the suit has been filed before the higher court by referring the value at Rs.9,000/- per square yard though the registration value is only Rs.3,000/- per square yard. It was thus contended that the plaint suffers from legal infirmities and the said Court has no pecuniary jurisdiction to entertain the suit as the value of the suit is only Rs.7,26,000/-.

A counter came to be filed by the plaintiff disputing the averments made in the affidavit filed in support of the petition, but however contended that the valuation put by the plaintiff is the

actual value of the suit property prevailed in the market on the date of institution of the suit and that the said Court has got both pecuniary and territorial jurisdiction to try the suit as per Section 7 of the A.P.C.F. and S.V.Act.

After considering the rival submissions, the learned trial Judge rejected the application on the ground that the plaint can be rejected only when there is under valuation of the plaint and not when it is overvalued. Challenging the same the present revision is filed.

Section 6 of C.P.C. postulates that the courts shall exercise jurisdiction over the suits which fall within its pecuniary limits. Section 15 of the C.P.C. contemplates that every suit has to be instituted in the court of the lowest grade competent to try it. Order VII Rule 11 which deal with rejection of plaint contemplates certain conditions as to when a suit can be rejected. It would be appropriate to refer to Order VII Rule 11 of C.P.C., which reads as under:

“11. **Rejection of plaint:** The plaint shall be rejected in the following cases:

- a) where it does not disclose a cause of action;
- b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the court, fails to do so;
- c) where the relief claimed is properly valued by the plaintiff is written upon paper insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamp paper within a time to be fixed by the court, failed to do so;
- d) where the suit appears from the statement in the plaint to be barred by any law;
- e) where it is not filed in duplicate;
- f) where the plaintiff fails to comply with the provisions of rule 9;

Provided that the time fixed by the court for the correction of the valuation or supply of the requisite stamp paper shall not be extended unless the court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature for correcting the valuation or supplying the requisite stamp paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause great injustice to the plaintiff.”

It is true that Order VII Rule 11 (b) refers to only under valuation of the suit but in ***Nandita Bose v. Ratanlal Nahata***^[1] the Apex Court held that although the plaintiff’s valuation in the plaint determines the pecuniary jurisdiction of the Court, still grossly overvaluing or undervaluing of a claim to bring a suit within the pecuniary jurisdiction of a particular Court shall tantamount to the abuse of the process of the Court and the Court can always correct it by passing an order under Order VII Rule 10 of C.P.C.

After referring to the judgments of the Apex Court in ***Sathappa Chettiar v. Ramanathan Chettiar***^[2] and ***Meenakshisundaram Chettiar v. Venkatachalam Chettiar***^[3], the Court in ***Tara Devi v. Sri Thakur Radha Krishna Maharaj***^[4] held that in a suit for declaration with consequential relief falling under Section 7 (iv) (c) of the Court Fees Act, 1870, the plaintiff has not been given the absolute right or option to place any valuation whatever on such relief and where the plaintiff manifestly and deliberately underestimates the relief the Court is entitled to examine the correctness of the valuation given by the plaintiff and to refuse the same if it is patently arbitrary or unreasonable.

In ***Inayat Hussain v. Bashir Ahmad*** a Division Bench of ***the Allahabad High Court*** held as under:

“Where the valuation of the suit for purposes of jurisdiction is contested, the value must be determined by the Court, and where the valuation can be ascertained correctly, the plaintiff cannot be allowed to put an arbitrary value upon his claim nor can he be allowed to overvalue or undervalue his claim with a view to choose his forum.”

In the present case also the plaintiff arbitrarily and unreasonably estimated the market value of the property at Rs.9,000/- per square yard though the market value is at Rs.3,000/- per square yard. Admittedly the plaint is overvalued. In view of the judgments referred to above, I am of the opinion that the Court below has committed a manifest error of law in holding that plaint can be rejected only when there is under valuation of the plaint.

Having regard to the circumstances stated above, the revision is allowed by setting aside the impugned order and the Court below is directed to return the plaint to the plaintiff for presentation of the plaint to the Court having jurisdiction to try the suit.

There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this Civil Revision Petition, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

03.03.2016
gkv

[\[1\]](#) AIR 1987 SC 1947

[\[2\]](#) AIR 1958 SC 245

[\[3\]](#)

[\[4\]](#) (1987) 4 SCC 69