

**ORDER**

The Revision petitioners are the plaintiffs in O.S.No.12 of 2017 on the file of the learned VI Additional District Judge, Madurai.

2. The suit is one for declaration and recovery of possession. The plaintiffs want the 12th defendant to hand over the property to the 1st plaintiff Trust. They question the validity of the antecedent title transactions, before the property came to the hands of the 12th defendant. The 12th defendant filed I.A.No.1147 of 2017 under Section 12(2) and (3) of Tamil Nadu Court Fees and Suit Valuation Act and Order 7 Rule 11(b) of C.P.C. The 12th defendant pointed out that the plaint has been valued in terms of Section 28 of the Tamil Nadu Court Fees Act and the Court fee was paid on that basis. Further, the 12th defendant pointed out that even as per the plaint averments, the suit is not a contest between the trustees or the ex-trustees. The 12th defendant therefore called upon the Court below to re-visit the issue of valuation and payment of Court fee. The said Interlocutory application was allowed by Order dated 14.03.2018. Aggrieved by the same, the plaintiffs have filed this Civil Revision petition.

3. Heard the learned counsel on either side.

4. The learned counsel appearing for the contesting defendants placed reliance on the decision reported in (1966) Vol.II M.L.J. 551 (Gnana Desiga Swamigal V. Krishnandaswami). It has been held by this Court that a reading of Section 28 of the Act makes it clear that it contemplates suits where the right of the Management alone is in dispute. The suit for recovery of trust property by the trustee from a stranger to the trust must be valued like any other suit for possession, by an owner against a stranger in possession. Even according to the plaint averments, the 12th defendant is a stranger in possession. Therefore, the case falls outside the purview of Section 28 of the Act.

5. The learned counsel appearing for the Revision petitioners contended that the language of Section 28 of the Act must be so construed as to include even a purchaser from the trustee. I am not in a position to agree with the said submission, because even as per the plaint averments, the case of the plaintiffs is not that the 12th defendant traces his title from the trustee of the plaint trust.

6. This Court is in full agreement with the reasons assigned by the learned trial Judge for allowing the I.A.No.1147 of 2017. The order passed by the learned VI Additional District Judge, Madurai,



in I.A.No.1147 of 2017 in O.S.No.12 of 2017, dated 14.03.2018, stands confirmed and the Civil Revision petition stands dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

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Sd/-

Assistant Registrar(Crl.side)

Sub Assistant Registrar(CS-III)

To

1. The VI Additional District Judge, Madurai.
2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(2 copies)**

+1CC to Mr.S.Srinivasa Raghavan, Advocate, SR.No.78217

+1CC to Mr.A.R.M.Ramesh, Advocate, SR.No. 78199

+1CC to Mr.T.R.Jeyapalam, Advocate, SR.No. 78142

C.R.P.(MD).No.944 of 2018 and
C.M.P.(MD)No.4164 of 2018
10.08.2018

PMU

ES/SKN/RSK/SAR 3/14.09.2018/3P/7C