

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Civil Revision Petition No.7365 of 2018

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed by the plaintiff being aggrieved of docket orders, dated 20.11.2018 & 03.12.2018, of the learned II Additional District Judge, Madanapalle, Chittoor District, whereby the plaint was returned directing the plaintiff to show as to how the said Court has got pecuniary jurisdiction to entertain the suit in view of the G.O.Ms.no.175, Law (L & LA and Justice, Home Courts-A) Department, dated 08.11.2018.

2. I have heard the submissions of the learned counsel appearing for the petitioner/plaintiff ('plaintiff', for brevity) at the stage of admission. I have perused the material record.

3. The facts, which are necessary to be stated as a preface to this order, are as follows:

The plaintiff instituted a suit in the II Additional District Court, Madanapalle, against the defendants for declaration of plaintiff's right & title over the plaint schedule property and for consequential reliefs. The said reliefs verbatim read as under:

1. To declare the plaintiff's right and title over the plaint schedule property.
2. Consequentially directing the defendants to remove the constructions in the plaint schedule property and deliver vacant possession of the same to the plaintiff within stipulated time granted by the Honourable Court, if the defendants fails to do so, the same may be done by due process of law by way of mandatory injunction and deliver vacant possession of the plaint schedule property to the plaintiff.
3. [Consequentially after delivery of the plaint schedule property to the plaintiff to grant permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the plaint schedule property.] (deleted relief)

4. Direct the defendant to pay the costs of the suit and
5. Such other orders as this Honourable Court may deem fit and proper in the circumstances of the case.'

The market value of the property is shown as Rs.19,50,000/- and the relief of declaration and recovery of possession is valued at  $3/4^{\text{th}}$  of the said market value, that is, at Rs.14,62,500/-. The relief of mandatory injunction is notionally valued at Rs.1,00,000/-. Thus, the total value of the suit is shown in the plaint as Rs.15,62,500/-. Since the value of the suit exceeded Rs.15,00,000/-, the suit was instituted in the District Court (Additional), on 27.11.2017. The plaint was returned with certain office objections as regards Deficit Court Fee. The Deficit Court Fee was paid and the plaint was re-presented. Then, on 20.11.2018, the plaint was again returned to explain as to how the Court has got pecuniary jurisdiction in view of the afore-stated GO. The plaint is re-presented stating that the GO is dated 08.11.2018, and that the suit was instituted prior to the issuance of the GO. The plaint was again returned, on 03.12.2018, on the ground that the previous objection, dated 20.11.2018, is not complied with. In the said circumstances, the present revision petition is filed.

4. Learned counsel submitted as follows: 'The suit was instituted in the Additional District Court, Madanapalle, of Chittoor District, on 27.11.2017, as the total value of the reliefs claimed in the suit being Rs.15,62,500/- is more than Rs.15,00,000/- and as by that date, the Forum for instituting the suit is the Additional District Court. However, the plaint was returned with certain office objections and was re-presented after complying with the office objection regarding payment of Deficit Court Fee. In the meanwhile, pecuniary jurisdictions of the Junior Civil Court, Senior Civil Court and the District Court with regard to Original Suits and proceedings of civil nature are increased by the aforesaid GO, dated 08.11.2018. By a Notification, dated 08.11.2018, it was notified that the Government appointed '15.11.2018', as the date for

commencement of the Andhra Pradesh Civil Courts (Amendment) Act, 2018, (Act no.26 of 2018). Therefore, '15.11.2018' is the date on which the provisions of the said Act came into force. Since the instant suit is already instituted by presenting the plaint, on 27.11.2017, as per the law in force as on that day, and as the afore-stated amendment, which came into force on 15.11.2018, is prospective in operation, the trial Court is not correct in returning the plaint on the point of pecuniary jurisdiction based on the aforesaid GO and the amended provisions of the A.P Civil Courts Act, 1972, which came into force from 15.11.2018 and which are prospective in operation.

5. For all purposes including the bar of limitation, the date of institution of the plaint is the criterion and not the date of registration of the suit, is the submission of the learned counsel. In the decision in Maddileti Alivelamma and another v. Saraswathamma and others<sup>1</sup>, this Court considered the effect of amendments to the provisions of the A.P Civil Courts Act, 1972, as amended by Act 29 of 1997, which was published and came into force on 09.12.1997. In the cited decision, the facts show that a suit was filed and was taken on file on 30.06.1992. The value of the subject matter of the suit was Rs.78,750/- . As on the date of the filing of the suit, the learned Senior Civil Judge, Madanapalle, had pecuniary jurisdiction to entertain the suit. On that day of filing, the suit could have been filed only on the file of the said Senior Civil Court. However, the learned District Judge withdrew the said suit and transferred it to Principal Junior Civil Court, Madanapalle, on the purported ground that the Junior Civil Court has got pecuniary jurisdiction in view of the amended provisions of the A.P. Civil Courts Act, which came into force on 09.12.1997. It was contended before this Court that the amendments introduced in the Civil Courts Act by way of amending Act 29 of 1997 are prospective in nature and that the said provisions have no application to the suits already instituted and pending on the files of Courts of competent

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<sup>1</sup> 2001 (2) ALT 465

jurisdiction. This Court referred to the decision in H.Haragopal v. Venkata Patna Kumar [1993 (1) ALT 482], wherein it was laid down that amendment to the provisions of A.P. Civil Courts Act are not retrospective in nature and held that as on the date of filing of the suit, the learned Senior Civil Judge, Madanapalle, alone had pecuniary jurisdiction to receive and try the suit and that the provisions of the Act in force as on the date of institution of the suit, shall continue to apply in respect of such suits instituted until their final determination. In view of the factual matrix of the present case and the legal position enunciated in the decision supra, this Court finds that the Court below, which is having jurisdiction to receive the plaint and entertain the suit, as on the date of the institution of the suit is having the pecuniary jurisdiction to try the suit and that the provisions of the A.P. Civil Courts Act, which are in force as on the date of the institution of the suit shall continue to apply in respect of the instant suit until its final determination by the said Court.

6. In the result, the Civil Revision Petition is disposed of directing the learned II Additional District Judge, Madanapalle, to receive the plaint on its re-presentation and entertain the plaint and register the suit, if it is otherwise in order.

Miscellaneous petitions, if any, pending in this appeal shall stand closed.

19.12.2018

M. SEETHARAMA MURTI, J

Note: - Issue CC by 21.12.2018

(B/o)

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