



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 13.12.2019

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WEB COPY

**THE HON'BLE MR.JUSTICE R.SUBRAMANIAN**

**C.R.P. (NPD) (MD) No.1523 of 2013**

**and**

**M.P (MD) No.1 of 2013**

C.Sakthivel

... Petitioner/Plaintiff

-Vs-

Isai Velalar Sangam,  
Through by its President,  
No.158-A, Ettayapuram Curve Road,  
Kovilpatti, Thoothukudi District.

... Respondent/Defendant

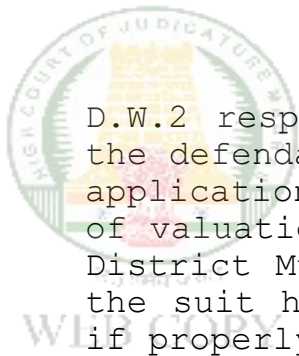
**Prayer:** Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Judgment and Decree dated 07.11.2012 in O.S.No.265 of 2009 on the file of the District Munsif Court, Kovilpatti by allowing this Revision Petition and pass such consequential orders.

For Petitioner : Mr.S.Siva Ilayaraja  
For Respondent : Mr.S.Ramasamy

**O R D E R**

This Civil Revision Petition is filed by the plaintiff in O.S.No.265 of 2009, on the file of the District Munsif Court, Kovilpatti challenging the order, dated 07.11.2012 made in O.S.No.265 of 2009 directing the return of plaint for presentation before the appropriate Court. Originally, the suit was filed by the plaintiff/petitioner herein seeking permanent injunction restraining the defendant from interfering with his possession of the suit property. During the pendency of the suit, the plaintiff sought for amendment of the plaint to include the relief of possession under Section 6 of the Specific Relief Act. The said amendment having been allowed the amended plaint was filed on 07.10.2010.

2. The defendant filed an additional written statement to the amended plaint on 22.1.2011. Thereafter, evidence commenced in December 2011, when the plaintiff filed his proof affidavit. It is also seen from the order of the Court below that the entire evidence in the suit was completed. The plaintiff was examined as P.W.1 and Ex.A1 to Ex.A39 were marked on the side of the plaintiff. Thiru.Rengarajan and Thiru.Swami Iyaa were examined as D.W.1 and



D.W.2 respectively, and Ex.B1 to Ex.B3 were marked on the side of the defendant. After the evidence was completed, it appears that an application was made by the defendant seeking to raise the question of valuation of the suit and sufficiency of Court-fee. The learned District Munsif entertained the said application and concluded that the suit has not been properly valued. It was also concluded that, if properly valued, the suit would exceed the pecuniary jurisdiction and returned the plaint, directing it to be presented before the appropriate Court. It is this order which is in question in this revision petition.

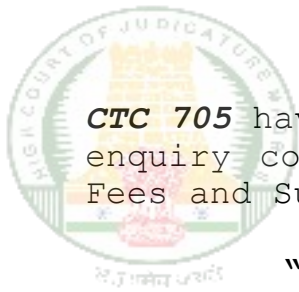
3. I have heard Mr.S.Siva Ilayaraja, learned counsel for the petitioner and Mr.S.Ramasamy, learned counsel for the respondent.

4. Mr.S.Siva Ilayaraja, learned counsel for the petitioner would contend that in view of Section 12(3) of the Tamil Nadu Court Fees and Suits Valuation Act r/w Section 21 of Civil Procedure Code, the question of valuation or jurisdiction should be raised at the earliest point of time and under no circumstances can those questions be allowed to be raised after evidence has been recorded. Therefore, according to him, the District Munsif was not right in allowing the defendant to raise the issue regarding the valuation and sufficiency of Court-fee, after completion of entire trial and returning the plaint to be presented before appropriate forum.

5. Contending contra, Mr.S.Ramasamy, learned counsel for the respondent would submit that when as a result of improper valuation being corrected, the Court will loose the pecuniary jurisdiction, error of valuation will have to be taken up and the Court was justified in entertaining the plea.

6. I have considered the rival submission.

7. As seen from the dates set out earlier, the objection relating to the valuation of the suit and sufficiency of court fee has been raised after the evidence was recorded on the merits of the suit. Section 12 of the Tamil Nadu Court Fees and Suit Valuation Act provides for a decision on the proper Court Fee. Section 12(2) mandates that the defendant who wants to raise a plea regarding valuation and sufficiency of Court fee has to do so before filing his written statement or before the evidence is recorded on the merits of the claim. Section 12(3) which is in the nature of proviso to Section 12(2) enables the defendant added after issues having been framed, on the merits of the claim made, in the written statement filed by him, plead that the subject-matter of the suit has not been properly valued or that the fee paid is not sufficient. Section 12(3) also mandates that all questions arising on such pleas shall be heard and decided before evidence is recorded, affecting such defendant, on the merits of the claim. The Division Bench of this Court in ***S.N.S.Sukumaran v. C.Thangamuthu reported in 2012(5)***



**CTC 705** have also considered the question regarding the scope of the enquiry contemplated under Section 12(2) of the Tamil Nadu Court-Fees and Suit Valuation Act, 1955 held as follows:

**"(4) Such objection with regard to improper valuation of the Suit and insufficiency of Court-fee shall be entertained by the Court only before the hearing of the Suit on merits commences and witnesses are examined. Section 12(2) of the State Act makes it clear that such objection shall be heard and decided before evidence is recorded on the merits of the case."**

8. In view of the above categorical pronouncement of the Division Bench, I am constrained to conclude that the Trial Court was not right in allowing the defendant to raise the issue regarding valuation and sufficiency of Court-fee after evidence was recorded in the suit. Therefore, the order of the trial Court is set aside and the Trial Court is directed to proceed with the suit from the stage as it was prior to the order, dated 07.11.2012 and dispose of the same in accordance with law. Accordingly, the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

Sub Assistant Registrar(CS )

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To

1. The District Munsif Court,  
Kovilpatti.

2. The Record Keeper, V.R.Section, (2 copies)  
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.S.SIVA ILAYARAJA, Advocate ( SR-104987[F] dated 13/12/2019 )

+1 CC to Mr.S.RAMASAMY, Advocate ( SR-104894[F] dated 13/12/2019 )

**C.R.P. (NPD) (MD) No.1523 of 2013**

**13.12.2019**

MK (06.01.2020) 3P 6C