



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

WEB COPY

**CRP (MD) No.1623 of 2019**

**and**

**CMP (MD) No.8499 of 2019**

Me.Veera Oorani Trust,  
Karaikudi  
Rep. by its Trustees  
1. C.M.Soma.Suba.Suba.Subramanian  
2. L.Murugappan

... Petitioner/Plaintiff

versus

CT.Annamalai

... Respondent/Defendant

Revision Petition filed under Article 227 of the Constitution of India against the order dated 03.09.2018 in Check-slip in O.S.No.141 of 2016 passed by the Additional District Munsif Court, Karaikudi.

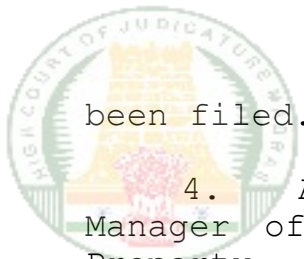
For Petitioner : Mr.M.Karthikeya Venkatachalapathy

**ORDER**

This Civil Revision Petition has been filed against the order dated 03.09.2018 passed in Check-slip in O.S.No.141 of 2016 by the Additional District Munsif Court, Karaikudi.

2. It is the case of the revision petitioner that the erstwhile Manager of the Trust continues in possession of the trust property and therefore, the suit in O.S.No.141 of 2016 has been filed for the purpose of evicting the erstwhile Manager from the trust property.

3. It is grievance of the revision petitioner that the Court below, by an order dated 03.09.2018, directed the plaintiff to pay Court Fee under Section 28 of the Tamil Nadu Court-Fees and Suits Valuation Act 1955 (hereinafter referred to as "the Act"). According to the revision petitioner, Section 28 of the Act will not apply to the revision petitioner and it will apply only when there is any dispute between the Trustees. But, in the present case, the trust property is in possession of the erstwhile Manager and therefore, he cannot be considered as a Trustee in terms of Section 28 of the said Act for the purpose of payment of Court Fee. Therefore, the order passed by the Court below is unsustainable in law. Challenging the same, the present Civil Revision Petition has



been filed.

4. Admittedly, the respondent/defendant was the erstwhile Manager of the Trust and he is now in possession of the Trust Property. For evicting the erstwhile Manager from the trust property, the suit has been filed by the revision petitioner and Court Fee has been paid under Section 22 of the Act.

5. Section 22 of the Act deals with the payment of Court Fee in a suit for money (including a suit for damages or compensation or arrears of maintenance, of annuities or of other sums payable periodically).

6. But, in the present case on hand, the suit property is a trust property and the suit has been filed by the Trust for eviction of its erstwhile Manager from the suit property. Since, the trust property cases come under Section 28 of the Act, the Court below has directed the revision petitioner to pay Court Fee under Section 28 of the Act.

7. In order to understand the provisions of Section 28 of the Act, it is extracted hereunder:

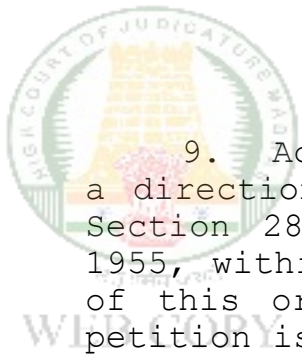
28. Suits relating to trust property - In a suit for possession or joint possession of trust property or for a declaratory decree, whether with or without consequential relief in respect of it, between trustees or rival claimants to the office of trustee or between a trustee and a person who has ceased to be a trustee, fee shall be computed on one-fifth of the market value of the property subject to a maximum fee of [rupees one thousand] or where the property has no market value, on [rupees five thousand] :

Provided that, where the property does not have a market value, value for the purpose of determining the jurisdiction of Courts shall be such amount as the plaintiff shall state in the plaint.

Further, Section 28 of the Act gives explanation, which is extracted as under:

"For the purpose of this section, property comprised in a Hindu, Muslim or other religious or charitable endowment shall be deemed to be trust property and the manager of any such property shall be deemed to be the trustee thereof."

8. As per the explanation given in Section 28 of the Act, the property is a trust property and the erstwhile manager is in possession of the trust property, he shall be deemed to be the Trustee. Furthermore, the property is a trust property. Therefore, the Court Fee is to be paid under Section 28 of the Act. Hence, there is no infirmity in the order passed by the Court below.



9. Accordingly, the Civil Revision Petition is dismissed with a direction to the revision petitioner to pay the Court Fee under Section 28 of the Tamil Nadu Court-Fees and Suits Valuation Act 1955, within a period of 15 days from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

Ogy

To

The Additional District Munsif Court,  
Karaikudi.

+1CC TO MR.S.MADHAVAN, Advocate Sr. No.88187

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**19.09.2019**

DB(CO)

TR(21.10.2019) 3P 3C