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A.No.4199 of 2023 in

TOS.No.21 of 2021

R.N.MANJULA.J.

This application has been filed to reject the plaint on the sole ground that the respondent / plaintiff has not paid the Court Fee in accordance with the value of the property and he had valued the property much below the market value of the property.

2. The learned counsel for the applicants relied on the judgment of this Court held in the case of *Philo Peter and Arputhasamy Vs. Divyanathan and Mariapushpam, reported in (1988) 2 LW 181*. In the said judgment, the Hon'ble Division Bench of this Court has held that once the Original Petition has been converted into Testamentary Original Suit in view of the caveat filed by one of the respondents, the Court Fee has to be paid on *ad-valorem* basis.

3. However, the learned counsel for the respondent/plaintiff submitted that he has taken out an application under Order XIV Rule 10(5) of the Original Side Rules before the learned Master and he has to pay the Court Fee only in accordance with the order passed by the



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learned Master and the citation and demand for payment of Court Fee made by the Registry.

4. It is to be noted that even if the plaintiff pays a lesser Court Fee he cannot be escaped from the clutches of law in view of the special provision contemplated under Sections 59 & 60 of the Court Fee Act. Since there are established procedure to check the collection of correct Court Fees payable by the plaintiff, rest of the proceedings can be allowed to be progressed. Hence, I find that this application filed to reject the plaint is pre-matured and it is liable to be dismissed.

5. In the result, this application is dismissed.

14.09.2023

gsk