



C.R.P.Nos.2966 of 2017 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

C.R.P.Nos.2966 to 2975 of 2017; C.R.P.Nos.2993 to 3002 of 2017
and
C.M.P.No.14045 to 14054 of 2017

In CRP.No.2966 of 2017:

P.C.Rajan

... Petitioner

Versus

1. Martharkula Welfare Association,
Reg.Society No.110/2007, rep.by its
 - 1) President A.G. Gurusamy,
 - 2) Secretary R.Velusamy
 - 3) Treasurer A.P.Gurusamy,
Sri Angalamman Temple,
Trichy Road, Palladam, Coimbatore District.

2. Arulmighu Angalamman Temple Palladam,
Rep.by its Managing Trustee, A. Narayanaswamy,
Office at Sri Angalamman Temple,
Trichy Road,
Palladam Coimbatore District.

... Respondents



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Civil Revision Petition is filed under Article 227 of the Constitution of India, pleaded to set aside the order dated 23.12.2016 passed in I.A.No.1018 of 2015 in O.S.No.212 of 2015 on the file of the II-Additional District & Sessions Judge of Tiruppur by allowing the civil revision petition.

For Petitioners : Mr. V. Ayyadurai, Senior Counsel
for Mr. C. Ananda Ramani

For Respondents : Mr. N.S. Nandakumar (for R1)

COMMON ORDER

The issue raised in these Civil Revisions is that the Court fee that has been paid by the plaintiff, is inadequate.

2.The petitioners are all defendants in the suit. According to them, the property was originally a “Minor Inam”, which by virtue of the Tamil Nadu Minor Inams (Abolition and Conversion Into Ryotwari) Act, 1963 (*Tamil Nadu Act 30 of 1963*) vested in the Government. Thereafter, in the proceeding initiated before the Settlement Tashildar, all the defendants were successful in obtaining Ryotwari Patta in their favour. They would plead that the value of the property runs into several lakhs, but, the Court



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fee that has been paid is only Rs.15/-. Therefore, they took out an application under Section 12(3) of the Tamil Nadu Court Fees and Suit Valuation Act, calling upon the Court to decide the issue with regard to the court fees first and thereafter to proceed with the case on merits.

3.A counter was filed by the respondents pleading that insofar as the relief sought for in the plaint is concerned, it is only a suit filed for recovery of possession. They would rely upon G.O.(Ms).No. 1574 (Home) dated 12.06.1972. According to them, by virtue of the said G.O., if the relief is one for bare recovery of possession, a religious institution irrespective of the value of the immovable property, needs to pay only the Court fee of Rs.15/-.

4.I have heard Mr.V.Ayyadurai, learned counsel for Mr.D.Gopal, learned counsel for the petitioners and Mr.L.Mouli, learned counsel appearing for the respondents.

5.It is a settled position of law, for the purpose of deciding the Court fee and the jurisdiction, the averments made in the plaint alone matters. As



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in rejection of the plaint, the Court will have to read the plaint and decide the Court fee and defence that might be taken by the defendants is irrelevant for the purpose of this case. Paragraph No.27 of the plaint relates to the relief. The relief is said forth below:

“27.....

A. directing the defendant to deliver the vacant possession of the suit property fully described in the schedule hereunder after demolishing the superstructures standing there on and if the defendants do not demolish the superstructures, permitting the plaintiff to get the super structures demolished at the cost of defendant..... ”

6.A reading of the relief shows that the plaintiffs had sued only for bare recovery of possession and had not pleaded declaration of their title. The question of valuation of the suit based on the market value will arise, insofar as the religious institution is concerned, only if it sues for declaration of its title to the suit scheduled mentioned property. I do not find the relief of declaration having been sought for in the plaint. In a suit for recovery of possession, the plaintiff stands or fails on the basis of proof of his title. The Government, in exercise of the power vested in it, under



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Section 73 of the Tamil Nadu Court Fee and Suit Valuation Act, has granted exemptions to certain categories of suits, namely, “Suits for recovery of possession by Religious Trust or Institutions”. The said Circular is extracted for ready reference:

**“REDUCTION OF COURT-FEES IN RESPECT OF
SUITS BY RELIGIOUS TRUSTS TO RECOVER
POSSESSION UNDER THE TAMIL NADU COURT-FEES
AND SUITS VALUATION ACT, 1955.**

(G.O.Ms.No.1574 Home, dated 12th June 1972)

No.3317 of 1972.- In exercise of the powers conferred by section 73 of Tamil Nadu Court-fees and Suits Valuation Act, 1955 (Tamil Nadu Act IV of 1955), the Governor of Tamil Nadu hereby reduces to a maximum of Rs.15 the fee payable under the said Act in respect of suits filed by Religious Trust to recover possession of immovable property.

[Published at page 695 of Part II, Section 1 of the Tamil Nadu Government Gazette, dated July 17, 1972.]”

7.The basis of the claim of the plaintiffs is that the second plaintiff is the owner of the property. The second plaintiff being a religious institution, is entitled to claim the benefits of the above said G.O.



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8.In view of the above, on reading of plaint alone, I have to conclude that the issue of Court fees does not arise. Accordingly, these Civil Revision Petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

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Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No

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V. LAKSHMINARAYANAN, J.,

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