



C.R.P.No.1562 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.1562 of 2024
and C.M.P.No.8391 of 2024

1.T.Ramanathan
2.T.Ramamurthy
3.T.R.Sridharan
4.R.Sriram
5.Sri Rang

... Petitioners

-Vs-

R.Sridharan

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 19.03.2024 passed in I.A.No.6 of 2024 in C.O.S.No.472 of 2023 on the file of the Commercial Court (Senior Civil Judge Cadre), Coimbatore.

For Petitioner : Mr.K.Venkata Subban
for M/s.Sarvabhauman Associates

ORDER

This revision impugns the order passed by the learned Commercial Division-cum-Senior Civil Judge, Coimbatore in I.A.No.6 of 2024 in C.O.S.No.472 of 2023.



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2. Originally, the suit had been presented before the IV Additional District Judge at Coimbatore. After the introduction of Commercial Courts Act (Act 4 of 2016), the suit stood transferred from the file of the IV Additional District Judge, Coimbatore to the file of the Commercial Division-cum Senior Civil Judge, Coimbatore.

3. The suit had been presented for the relief of rendition of accounts, for partition and other consequential reliefs. Written statement had been presented by the defendants as early as in the year 2019. Thereafter, an application was taken under Section 12(3) of the Tamil Nadu Court Fees and Suit Valuation Act read with Order XIV Rule 2 to take up the valuation of the suit as preliminary issue and decide the same.

4. The learned trial Judge has dismissed the application, against which the present revision.

5. Mr.K.Venkata Subban, learned counsel for the petitioner would vehemently contend, relying upon the judgment of this Court in C.R.P.(PD) No.3686 of 2016 dated 21.08.2017, that the Court has the power even to appoint an Advocate Commissioner to decide on the



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valuation of the property, and therefore the order of the learned trial Judge requires interference.

6. A careful perusal of the judgment in C.R.P.(PD) No.3686 of 2019 pointed out by the learned counsel for the petitioner shows that, it was not a suit before the Commercial Division Court but it was a civil suit filed before an ordinary civil court. Insofar as commercial division suits are concerned, the Civil Procedure Code has been amended and under the Schedule to Act 4 of 2016, a new provision was incorporated under Order VIII Rule (3A). This Schedule by virtue of Section 16 of the Commercial Courts Act is what which applies for trial of such commercial suits. Therefore, the judgment with respect to ordinary civil suits cannot be relied upon in matters which are being dealt with under the Commercial Courts Act, 2015.

7. The purpose of creating Commercial Courts is for reduction of matters relating to commercial disputes and to fast track the suits governed under the said Act.

8. In the present case, the plaintiff had filed his written statement as early as on 25.04.2019, but he waited till 29.01.2024 in order to file an application for deciding court fee and valuation as a preliminary



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9. I put it to Mr.Venkata Subban, learned counsel for the petitioner as to whether the affidavit that has been filed in support of I.A.No.6 of 2024 complies with the requirements of Order VIII Rule 3A (4) and (5).

10. Mr.Venkata Subban would draw my attention to the affidavit filed in support of the application, in particular para 4 and 5 and would plead that it satisfies the requirements of Order VIII Rule 3A (4) and (5). Under Rule 3A (4), where the defendant disputes the jurisdiction of the Court, he must, apart from giving reasons, should also specifically state the Court which will have jurisdiction to deal with the issue. Apart from that, under Rule 5, in case he disputes the Court fee, the defendant will also have to state his own statement of the value of the suit property.

11. I have gone through the affidavit in I.A.No.6 of 2024 and find while the defendant has questioned the jurisdiction of the Court, he has not complied with Order VIII Rule 3A (4) and Order VIII Rule 3A (5). To be clear, the defendant has not stated which Court will have jurisdiction and has not given his own statement of the value of the



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property. A general statement that property will be valued at Rs.10 Crores does not suffice for the requirement of Order VIII Rule 3A (5).

12. Mr.Venkata Subban would then point out to Order XV Rule 6A which shows that a Court can have a separate trial on any issue. Order XV Rule 6A deals with case management hearing and not with the actual trial of the suit. In this particular case, the order of the trial Court reveals the matter is already posted for chief examination of the plaintiff on the basis of proof affidavits. Therefore, the stage of Order XV Rule 6A has gone by. It is only thereafter the suit has been taken up for trial.

13. Mr.Venkata Subban would then contend that on the basis of the judgment of a Division Bench of this Court in **Ramanan Balagangatharan -vs- M/s.Rise East Entertainment in CRP (SR) No.92516 of 2022 dated 24.03.2022**, the civil revision petition is maintainable.

14. The ratio of the judgment referred above by Mr.Venkata Subban is that a revision is not maintainable as against the order of the learned single Judge. Para 5 of the said judgment merely extracts the



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provision under Article 227 of the Constitution of India. Therefore, even this judgment is not helpful to the case of the learned counsel for the petitioner.

15. Since the affidavit of the petitioner falls short of Order VIII Rule 3A (4) and (5), I am unable to come to the rescue of the petitioners. Therefore, the civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

12.04.2024

Index : Yes/No
Neutral Citation : Yes/No

KST

To

The Commercial Court-cum-
Senior Civil Judge, Coimbatore.



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V. LAKSHMINARAYANAN, J.
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