



C.R.P.No.2900 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 19..08..2024

Coram

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Civil Revision Petition No.2900 of 2024

&

C.M.P.No.15441 of 2024

1.Mr.Gokula Rao N

2.Mrs.Shantha Kumar

3.Mrs.Karunya Devi

..... Petitioners

-Versus-

1.Mrs.Prema Kumari

Mrs.Shantha Kumari (Deceased)

2.Mrs.Lakshmi

3.Mrs.Swadheshi Kumari

4.Mrs.Vasanth Priya

5.Mrs.Pappi

6.Mr.Janardhanan

7.Mrs.Vijaya Samundeeswari

..... Respondents

Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 06.07.2024 made in I.A.No.12 of 2023 in O.S.No.215 of 2010 by the learned Additional District Judge, Fast Track Court at Kancheepuram and for a direction to the learned Additional District Judge, Fast



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Track Court, to decide the issue of court-fee deficiency as a preliminary issue in accordance with Section 12(3) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955.

For Petitioner (s) : Ms.S.P.Arthi

For Respondent (s) : Mr.S.Rajendran for RR1, 2, 6 & 7

*Mr.T.Vanitha Sri Rohini Devi for
RR 3 to 5*

ORDER

This civil revision petition arises against the order dated 06.07.2024 made in I.A.No.12 of 2023 in O.S.No.215 of 2010 by the learned Additional District Judge, Fast Track Court, Kancheepuram.

2. The civil revision petitioners are defendants 5 to 7 in O.S.No.215 of 2010. The respondents 1 to 3 filed the said suit for partition and separate possession. They presented the suit against their siblings. Pending the litigation, the 1st defendant had passed away and his legal representatives were brought on record as defendants 5 to 7. Even before they were impleaded as parties, the matter proceeded for trial. When the evidence was being recorded for D.W.2, an application was filed by the civil revision petitioners stating that the valuation of the suit was improper. They would plead that the suit should have been valued under Section 37(1) instead of Section 37(2) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955.



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3. After receipt of the counter affidavit from the plaintiffs, the learned trial Judge proceeded to dismiss the application holding that in terms of Section 12(2) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955, an application should have been filed before the first date of hearing and since the application had been filed thereafter, it is not maintainable, against which the said revision.

4. Heard Mr.S.P.Arthi, learned counsel appearing for the civil revision petitioners, Mr.S.Rajendran, learned counsel appearing for the respondents 1, 2, 6 & 7 and Ms.T.Vanitha Sri Rohini Devi for the respondents 3 to 5.

5. Ms.S.P.Arthi would submit that though Section 12(2) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955 specifies that an application has to be filed before the first hearing of the suit. She would state that if a restricted meaning is given to Section 12(2), the very object of the section would be nullified. For the said proposition, she would place reliance upon the judgement of the Madurai Bench of this Court in the case of Indirani and another v. Raja @ Annadurai CRP (PD)(MD) No.531 of 2012 dated 27.09.2019.

6. Mr.Rajendran and Ms.T.Vanitha Sri Rohini Devi would submit in unison that this application itself came to be filed at the stage of D.W.1 cross and it is directly hit by bar placed under Section 12(2) of the Tamil Nadu Court-



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Fees and Suits Valuation Act, 1955.

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7. I have carefully analysed the arguments advanced on either side.

8. The suit is for partition and separate possession. With regard to matters relating to court-fees and jurisdiction, it is the averment made in the plaint alone that matters. If court fee is an issue which would affect the pecuniary jurisdiction of the court, then the defendant may have a say. However, if the jurisdiction of the court is not going to be affected by virtue of the valuation in the suit, then, the defendant does not have a say at all. Court-Fees is essentially a matter between the court and the plaintiff as it is a revenue measure initiated by the State. Being the taxing statute, Tamil Nadu Court-Fees and Suits Valuation Act, 1955 has to be strictly read. Under Section 12(2) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955, an application relating to court-fees has to be filed before the first hearing of the suit. As to what is the first hearing of the suit has been defined by this court by virtue of the powers in it under Section 122 of CPC.

9. The term “**first hearing of the suit**” has been defined under sub-rule (6) of Rule 3 of the Civil Rules of Practice and circular standing orders which state that it includes hearing of the suit for settlement of issues or any adjournment thereof. This implies that before the settlement of issues, the matter relating to court-fees should have been raised. That stage has long gone



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by in the present lis. The plaintiffs have finished their evidence and the suit is now at the stage of cross examination of the defendants. Suit has travelled beyond the stage of framing of issues and it has been listed for trial and that the suit has proceeded onwards with the evidence of the plaintiffs having been completed. Therefore, Section 12(2) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955, cannot be interpreted to mean that it is available at all points of time.

10. Insofar as Order XIV of CPC is concerned, it is the matter which relates to jurisdiction of the court. I notice from the plaint that the suit has been presented before the District Court at Kancheepuram. The District Court, being a court of unlimited pecuniary jurisdiction, provision of Order XIV of CPC would not affect its jurisdiction. This is because what ever be the court-fees paid either under Section 37(1) or 37(2), it is the District Judge, who will have jurisdiction over the matter.

11. It is here I have to take notice of the judgement relied upon by Ms.S.P.Arthi. A perusal of the judgement shows that the suit had been filed before the Subordinate Court at Sivagangai. Had the valuation been changed as pleaded by the respondents therein, perhaps, the court would not have jurisdiction and the plaint would have had to travel to the District Court. It was in those circumstances, the learned Judge took the view that he did. I think that



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judgement cannot be stretched to include a suit, which has been presented before a court of unlimited jurisdiction.

12. In the light of the above discussions, the civil revision petition fails and the same is liable only to be dismissed.

In the result, the civil revision petition is dismissed. No costs. Consequently, connected CMP is closed.

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
kmk

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To

1.The Addl. District Judge, FTC, Kancheepuram, Kancheepuram District.



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V.LAKSHMINARAYANAN.J.,
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