



C.R.P.(PD)No.4556 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **19.11.2024**

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.4556 of 2024

Mohanapriya

.. Petitioner

Vs

1. Subbaraya Gounder

2. Vasanthi

3. Kathiresan

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order of return dated 25.04.2024 made in O.S.No.294 of 2020 on the file of the learned Additional District Munsif (FAC) at Tiruppur.

For Petitioner : Mr.C.A.Ramanan
for Mr.N.Manokaran

ORDER

This civil revision petition arises against the order of return passed by the learned Additional District Munsif at Tiruppur in O.S.No.294 of 2020 dated 25.04.2024.



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2. The plaintiff is the civil revision petitioner. O.S.No.294 of 2020

is a suit presented for declaration and for permanent injunction. The suit was valued under Sections 25(d) and 25(c) of the Tamil Nadu Court-Fees and Suits Valuation Act (TNCF Act). Pleadings were completed and the Trial Court commenced evidence in the proceedings. At that stage, it was found that the valuation of the suit property has given as Rs.1,50,000/-. The jurisdiction of the learned District Munsif being only Rs.1,00,000/-, the learned Judge returned the plaint stating that it does not possess the necessary pecuniary jurisdiction and granted 45 days time for the plaintiff to represent before the jurisdictional Court. This order is put in challenge before me.

3. I heard Mr.C.A.Ramanan for the civil revision petitioner.

4. Mr.C.A.Ramanan pleaded that the valuation, though given as Rs.1,50,000/-, since the plaintiff seeks for only 50% of the said value and it is her share will be at Rs.75,000/-. Hence, the learned District Munsif possesses the pecuniary jurisdiction. He relies upon two judgments of this Court in *M.K.Srinivasan and another v. Rangarajan, (2008) 1 LW 338* and *Palanisamy v. Rangasamy, C.R.P.(PD)No.2750 of 2022, dated 08.09.2022 (Per S.Sounthar,J).*



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5. As per Section 25(d) of the TNCF Act, whether the subject matter of the suit is capable of valuation or not, then the fee will be computed at Rs.5,000/- or more. It is on this provision that Mr.C.A.Ramanan relies on to argue that he is entitled to value the suit at 50% of the share of the plaintiff.

6. I should point out, this is not a suit for partition. It is a suit for declaration. In case in the suit for partition, whatever be the value of the suit property, the plaintiff pays a Court fee on his share of the property. It is a special provision which is provided for partition suits. It cannot be invoked for suits of declaratory reliefs. Therefore, the plea of Mr.Ramanan that the plaintiff is entitled to value it at half the value of the suit, which corresponds to her share of the property, is not acceptable.

7. Next turning to the two authorities that Mr.Ramanan relies upon, in the first of the cases, ***M.K.Srinivasan and another v. Rangarajan, (2008) 1 LW 338***, the issue that was presented before the Hon'ble Mr.Justice M.Venugopal arose on entirely different circumstances. A succession O.P. had been presented before the Principal District Court at Chengalpet and the valuation in the said O.P. was Rs.34,000/-. Therefore,



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return of the papers was sought for by filing a memo stating that the pecuniary jurisdiction for such proceeding lies before the learned Subordinate Judge and not before the learned District Judge. This Court, by way of an order dated 28.11.2007, held that under Section 29 of the Tamil Nadu Civil Courts Act, 1873, the learned Principal District Judge ought to have sent the papers to the jurisdictional Court possessing the pecuniary jurisdiction. This was based on Section 388 of Indian Succession Act, 1925 holding that a Court inferior to a District Court has the jurisdiction to try a succession O.P. I fail to understand how this judgment will come to the rescue of Mr.Ramanan's client for, it did not deal with the issue of Court fee at all.

8. The other judgment that is relied upon by Mr.Ramanan in ***Palanisamy v. Rangasamy, C.R.P.(PD)No.2750 of 2022, dated 08.09.2022 (Per S.Sounthar,J)***, was a suit which relates to declaration of title. In the said suit, an application under Order VII Rule 11 of the Code was moved seeking for rejection of the plaint. This judgment too does not support the proposition that Mr.Ramanan seeks to press before me.

9. When the admitted valuation is Rs.1,50,000/-, the learned



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District Munsif, obviously, does not have the pecuniary jurisdiction to deal with the same. Consequently, the order of return cannot be found fault with. Hence, the order of return is upheld and this revision is dismissed.

10. Since the plaintiff was prosecuting this revision, I am inclined to extend the time granted for re-presentation of the plaint before the jurisdictional Court by a further period of 30 days. No costs.

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Index:Yes/No

Speaking Order:Yes/No

Neutral Citation :Yes/No

Note to the Registry: The original of the plaint filed along with this revision shall be returned to the learned counsel for the petitioner after obtaining the usual endorsement.

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To

The Additional District Munsif (FAC) at Tiruppur.

V. LAKSHMINARAYANAN,J.

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