



CRP.No.1335 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 26.06.2025

Order pronounced on : 04.07.2025

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THE HON'BLE MR. JUSTICE P.B.BALAJI

CRP.No.1335 of 2025
& CMP.No.7856 of 2025

K.Rathinaswamy

..Petitioner

Vs.

1.O.S.Jerry
2.Susila

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the petition order passed in I.A.No.3 of 2024 in O.S.No.27 of 2024 dated 14.02.2025 by the learned District Munsif, Coonoor, the Nilgiris.

For Petitioner : Mr.M.Rajasekar

For Respondents : No appearance

ORDER

The 1st defendant in a civil suit in O.S.No.27 of 2024 before the District Munsif Court, Coonoor, has preferred the revision, aggrieved by the order of the District Munsif, Coonoor, Nilgiris, in his application seeking to relegate an enquiry in order to determine the valuation of the subject matter and the



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propriety of the Court Fees paid thereon.

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2.The 1st respondent as plaintiff filed the above said suit seeking the relief of declaration that the plaintiff is the owner of the suit schedule property and for recovery of possession as well as consequential permanent injunction. In the said suit, the 1st defendant took out an application under Section 12(2) of Tamil Nadu Court Fees and Suit Valuation Act, 1955 r/w Section 151 of CPC to conduct an enquiry and to determine the valuation of the suit property and to call upon the 1st respondent/plaintiff to make good any deficit in the Court Fee actually payable.

3.The said application was resisted by the 1st respondent and the Trial Court dismissed the application on the ground that the revision petitioner had not filed his written statement and the objection therefore, regarding incorrect valuation, cannot be decided as a preliminary issue. The 1st respondent/plaintiff, despite service of notice, has neither chosen to appear in person not through counsel. I have proceeded to hear Mr.M.Rajasekar, learned counsel for the petitioner/1st defendant.

4.The learned counsel for the petitioner would submit that the Trial Court



has seriously erred in holding that the issue of Court Fee cannot be taken up as a preliminary issue on the only ground that the revision petitioner had not filed his written statement in the said suit. He would further state that even on a casual perusal of the relief sought for in the plaint, it is clear that the reliefs are undervalued and he would further state that under Section 12(2) of the Tamil Nadu Court Fees and Suit Valuation Act, it is not mandatory that the issue of Court Fee should be raised only by filing a written statement, but it can also be filed by way of separate application for this very specific purpose. He would also state that even the value as set out in the plaint was Rs.1,01,000/- which was beyond the pecuniary jurisdiction of the District Munsif Court, which could try the suits only up to the value of Rs.1,00,000/-.

5.The learned counsel for the petitioner would also place reliance on the decisions of this Court in *R.C.Sundaravalli Vs. T.D.Shakila*, reported in 2002 (1) CTC 33, and *Minor R.Boopathy and Others Vs. Ranjeetham and Others*, reported in 2019 4 L.W 863. The learned counsel for the petitioner would therefore submit that the Trial Court had clearly fell in error in dismissing the application filed under Section 12(2) of the Tamil Nadu Court Fees & Suit Valuation Act and pray for the revision being allowed.



6.I have carefully considered the submissions of the learned counsel for the revision petitioner.

7.The suit has been filed for declaration, recovery of possession and injunction. The said suit has been contested by the revision petitioner/1st defendant. The revision petitioner, on receipt of summons in the said suit, has taken out an application under Section 12(2) of the Tamil Nadu Court Fees and Suit Valuation Act to relegate an enquiry in order to determine the valuation of the subject matter and the proprietary of the Court paid thereon. Section 12(2) of the said Act is extracted hereunder for easy reference.

“12.(2). Any defendant may, by his written statement filed before the first hearing of the suit or before evidence is recorded on the merits of the claim but, subject to the next succeeding sub-section, not later, plead that the subject-matter of the suit has not been properly valued or that the fee paid is not sufficient. All questions arising on such pleas shall be heard and decided before evidence is recorded affecting such defendant, on the merits of the claim. If the Court decides that the subject-matter of the suit has not been properly valued or that the fee paid is not sufficient, the Court shall fix a date before which the plaint shall be amended in accordance with the Court's decision and the deficit fee shall be paid. If the plaint be not amended or if the deficit fee be not paid within the time allowed, the plaint shall be rejected and the Court shall pass such order as it deems just regarding costs of the suit.”

8.The language employed by the legislature in Section 12(2) of the Act



has been subject matter of interpretation by this Court as early as in the case of

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Raju Gramani Vs. Srinivasa Gramani, reported in (1958) 1 Mad LJ 308, where this Court held that the objection that is available to be taken by a defendant regarding improper valuation of the suit or insufficient Court Fee being paid thereon, can be even by a petition supported by an affidavit and it need not be only by way of written statement.

9.The only criterion which matters is that such objection should be taken before the first hearing of the suit, i.e., before the evidence is recorded on the merits of the claim. In the case on hand, admittedly, the Trial Court has found that even the written statement is yet to be filed and therefore, the stage of the first hearing of the suit has not arisen. The Trial Court has however, rejected the application on the ground that the preliminary issue can be taken up only if a written statement is filed by the defendant, raising a specific issue on improper valuation and insufficient Court Fee. Unfortunately, the Trial Court has erred in not following settled principles, enabling the defendant to even take out an application under Section 12(2) for determining the valuation and Court Fee.

10.In *R.C.Sundaravalli's case*, this Court finding on the facts of the said case that the question relating to Court Fee was not raised before the first



hearing of the suit, proceeded to non suit the defendant.

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11.In *Minor R.Boopathy's case*, the defendant had questioned the pecuniary jurisdiction of the Court by way of filing a memo and this Court held that the memo would be sufficient for the Court to take up the issue raised on jurisdiction.

12.In the case on hand, admittedly, the suit has not been taken up for decision on merits and in other words, the suit has not yet reached the stage of the first hearing. In fact, the term 'first hearing' is also defined in Rule 3(6) the Civil Rules of Practice to mean that it includes the hearing of a suit for settlement of issues and any adjournment thereof. When the defendant has not yet filed his written statement, certainly it cannot be said that the suit has already crossed the stage of first hearing.

13.In the light of the decision of this Court in *Raju Gramani's case*, there is no impediment for the defendant to raise the issue of improper valuation or insufficiency of Court Fee by taking out an application, supported by an affidavit. Ignoring the said binding precedent laid down by this Court, the Trial Court has proceeded to reject the application. The reasons assigned by the Trial

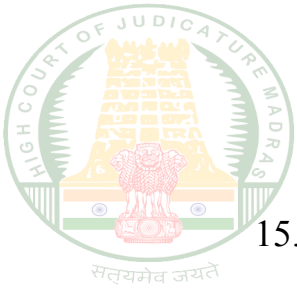


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Court are directly in conflict with the ratio laid down in *Raju Gramani's* case.

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14.The Trial Court has also placed reliance on the decision of this Court in *S.N.S Sukumaran Vs. C.Thangamuthu*, reported in 2012 (5) CTC 705, which was a case which had no application to the facts of the present case. The said decision did not decide the issue of maintainability of an objection by way of an application supported by an affidavit, questioning the valuation of the Court Fee paid. For all the above reasons, I am inclined to set aside the order of the Trial Court since the Trial Court has not gone into the merits of the objection. Considering the fact that the respondent has not chosen to appear in this revision, while setting aside the order, I direct the Trial Court to re-hear I.A.No.3 of 2024 and decide the objection of the revision petitioner regarding incorrect valuation and insufficient Court Fee as well as pecuniary jurisdiction, on merits and in accordance with law. If the Trial Court comes to the finding that the valuation is improper and insufficient Court Fee is paid on the plaint and that the Trial Court does not have the pecuniary jurisdiction to try the suit, subject to such findings arrived at by the Trial court, the Trial Court may return the plaint to be presented before the proper Court, subject to correcting the valuation and payment of proper Court Fee.



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15. With the above observation and direction, the Civil Revision Petition is allowed and the order in I.A.No.3 of 2024 in O.S.No.27 of 2024 dated 14.02.2025 by the learned District Munsif, Coonoor, the Nilgiris is hereby set aside. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

04.07.2025

Speaking/Non-speaking order
Index : Yes/No
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To
The District Munsif, Coonoor, Nilgiris.



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Pre-delivery order made in
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