



CRP.No.1724 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 24.06.2025

Order pronounced on : 14.07.2025

CORAM

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

CRP.No.1724 of 2025
& CMP.No.9953 of 2025

1.Sundaram
2.Rani
3.Kumar
4.Sengeni
5.Alamelu

..Petitioners

Vs.

1.Thaiyalnayagi
2.Rajaram
3.Senthilkumar
4.Vijaya

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 24.01.2025 in I.A.No.5 of 2024 in O.S.No.21 of 2024 by the Principal District Judge at Puducherry.

For Petitioners : Mr.B.Vijaya Barathan

For Respondents : Mr.S.Ilamvaludhi for RR1 to 3

R4 – Not ready in notice



CRP.No.1724 of 2025

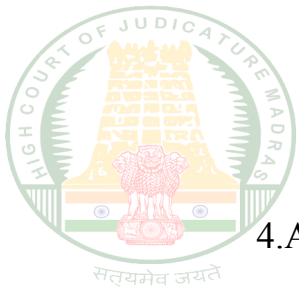
ORDER

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The defendants 1 to 3, 5 and 6, who were unsuccessful in their application in I.A.No.5 of 2024 in O.S.No.21 of 2024, are the revision petitioners in the above Civil Revision Petition.

2.I have heard Mr.B.Vijaya Barathan, learned counsel for the revision petitioners and Mr.S.Ilamvaludhi, learned counsel for the respondents 1 to 3.

3.The learned counsel for the petitioners would submit that the petitioners had taken out an application under Section 11(2) of the Pondicherry Court Fees and Suits Valuation Act, 1972, seeking a direction for decision on the valuation and adequacy of Court fee paid by the respondents 1 to 3/plaintiffs in O.S.No.21 of 2024. The learned counsel for the petitioners would further submit that the suit has been filed for a relief of declaration that the judgment in O.S.No.526 of 2023 dated 14.07.2023 is null and void and also for declaring the plaintiffs as the absolute owners of the suit schedule mentioned property and for a permanent injunction restraining the defendants, their men and agents from disturbing the plaintiffs' peaceful possession and enjoyment of the suit schedule property.



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4. According to the learned counsel for the revision petitioners, the respondents ought to have valued the relief of viz., the first prayer under Section 40(1) of the Pondicherry Court Fees and Suit Valuation Act and the declaratory relief in prayers 2 to 4 under Section 25(d) of the Act. He would further submit that the respondents 1 to 3 have not effected payment of proper Court Fee and hence the Court ought to have called upon the plaintiffs to make up the deficit Court Fee.

5. The learned counsel for the petitioners would place reliance on the decision of this Court in *Kutumba Sastri Vs. Sundaraman*, reported in (1939) 1 MLJ 702, where the Full Bench of this Court held that the suit of this nature has to be valued only under Section 40(1) of the Court Fees Act based on the market value of the property. He would also place reliance on the Judgment of this Court in *S.N.S. Sukumaran Vs. C. Thangamuthu*, passed in C.R.P.(PD).No.3620 of 2007 dated 27.09.2012, where the First Bench of this Court held that the defendant has a right to take an objection regarding improper valuation of the suit and inadequacy of Court Fees, either in the written statement or by way of affidavit supported by the petition. The only requirement is that such objection should be raised before the hearing of the suit, that is before any evidence is recorded on the merits of the suit claim. He



would also place reliance on the judgment of this Court in *A.Govindammal Vs.*

The Secretary, Sathyamoorthy Co-operative Housing Society Limited and Others, passed in *C.R.P.(PD).No.873 of 2016* dated *06.01.2022*, where this Court held that when declaration and injunction is sought for in respect of immovable property, the Court fee payable is only as per Sections 40 and 25(b) of the Court Fees Act. He would therefore pray for the revision being allowed.

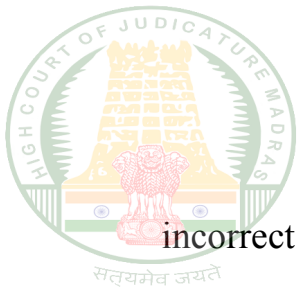
6.Per contra, Mr.S.Ilamvaludhi, learned counsel for the respondents 1 to 3 would submit that the respondents 1 to 3 as plaintiffs, have paid proper Court Fee and he would further submit that though initially the suit was valued at Rs.400/- and the Court fee of Rs.30.50 was paid. However, the Registry raised an objection regarding valuation of the property and the plaintiffs have already paid a sum of Rs.1,06,466/- towards Court fee. He would therefore state that it is not open to the petitioners to now seek to conduct an enquiry with regard to the valuation and the Court fee paid by the respondents/plaintiffs. He would further state that the learned Trial Judge has assessed the entire facts and circumstances while dismissing I.A.No.5 of 2024 and there is no necessity for the respondents/plaintiffs to pay any further Court fee. He would state that the petitioners are only litigating vexatiously and dragging the proceedings only to gain time. He would also point out to the fact that I.A.No.5 of 2024 was



dismissed imposing costs of Rs.1,000/- as well. He would therefore pray for dismissal of the revision.

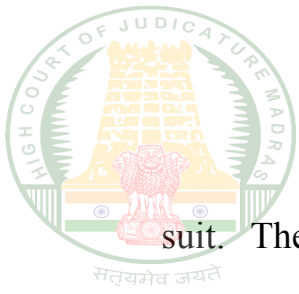
7.I have carefully considered the submissions advanced by the learned counsel on either side. I have also gone through the impugned order passed by the Trial Court and also decisions that have been relied on by the learned counsel for the revision petitioners.

8.The suit admittedly has been filed by the respondents 1 to 3 as plaintiffs 1 to 3, for the reliefs of declaration and injunction. The defendants have now raised the issue with regard to improper valuation of the reliefs. According to the petitioners, the first relief, namely to declare the judgment and decree passed in O.S.No.526 of 2023 by the Principal District Munsif, Puducherry dated 14.07.2023 as null and void have not been valued under Section 40(1) of the Pondicherry Court Fees and Suit Valuation Act and the reliefs 2 to 4 which are for declaring the plaintiffs as absolute owners of the suit schedule property and permanent injunctions have not been valued under Section 25(a) of the Pondicherry Court Fees and Suit Valuation Act. The application was resisted by the respondents/plaintiffs stating that even at the time of filing of the suit, the Registry had pointed out that the valuation was



incorrect and the Court fee paid was also not correct. Subsequently, a sum of Rs.60,000/- was paid on 14.02.2024 and a sum of Rs.56,466/- was paid on 15.02.2024. Therefore, it is only after the said amounts came to be paid, the suit was taken on file and numbered. It is further contended by the respondents/plaintiffs that therefore the question for payment of further Court fees does not arise. The Trial Court has dismissed the application holding that proper Court fee has been paid on the plaint and the Court can go only by the averments in the plaint.

9.The Trial Court has found that there is a specific averment that the plaintiffs are in physical possession of the property. The Trial Court has further held that such possession can also be constructive possession and need not be physical or actual. The Trial Court further proceeded to reject the contentions of the revision petitioners with regard to the valuation under Section 27(c) of the Court Fees Act. Insofar as the requirement to value the relief of declaration that the judgment and decree in O.S./No.526 of 2023 is null and void under Section 40(1) of the Pondicherry Court Fees and Suit Valuation Act, the Court has found that proper Court fee has been paid and dismissed the application. The grievance of the petitioners/defendants is that the plaintiffs have not paid proper Court fee has already been addressed even at the time of filing of the



CRP.No.1724 of 2025

suit. The plaintiffs have been called upon to pay deficit Court fee of

Rs.1,04,466/- which has also been paid through e-Court Fee under Receipt No.PYCT1408B24020305 (Rs.60,000/-) dated 14.02.2024 and Receipt No.PYCT537B24370042 (Rs.56,466/-) dated 15.02.2024 in all Rs.1,06,466/-.

Therefore, the entire exercise of requirement of payment of proper Court fee has already been addressed by the Registry and deficit Court fee that was called upon to be paid by the plaintiffs has also been paid. It is also trite law for the purposes of valuation of Court fee, the Court can be guided only by the plaintiff averments.

10.In the light of the above, I do not find any infirmity or illegality in the order passed by the Trial Court. Insofar as the decisions that have been relied on by the learned counsel for the revision petitioners, no doubt, the defendants have a right to raise objections, calling upon the plaintiffs to pay proper Court fee on valuation of the suit property. However, in the instant case, the said exercise has already been carried out and insofar as the relief of declaration, I find that the judgment and decree which has been challenged by way of declaratory prayer in the present suit was based on a compromise memo under Order XXIII Rule 3 of CPC. The said earlier suit has been valued for the purpose of Court Fees and jurisdiction for permanent injunction at Rs.1200/-



CRP.No.1724 of 2025

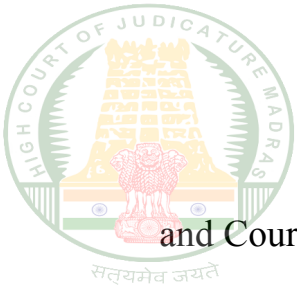
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(Rs.400/- + Rs.400/- + Rs.400/-) in all and the Court fee of Rs.91.5/- in all

(Rs.30.50/- + Rs.30.50/- + Rs.30.50/-) has been paid under Section 27(c) of the

Pondicherry Court Fees and Suits Valuation Act. In terms of Section 40(1) of the Court Fees Act, when a suit for cancellation of a decree is filed, then the Court fee would be payable only on the amount or value of the subject matter of the suit. The petitioners themselves have valued the suit only for a total sum of Rs.1200/- as seen from the decree passed in O.S.No.526 of 2023. In fact, I find that the plaintiffs herein/respondents 1 to 3 are not even parties to the said suit and it is their specific case in the present suit that fraud has been played upon the Court and that parties who had no right in the suit properties, had colluded to defraud the plaintiffs herein and deprived them of their valuable rights in the suit property. In such circumstances, the plaintiffs cannot be driven to the necessity of valuing the suit property at the whims and fancies of the defendants, who themselves have got away valuing the reliefs for merely Rs.400/-.

11. With regard to the relief of declaration that the respondents are the owners of the suit schedule property, though the plaintiffs have originally valued it at Rs.400/- and sum of Rs.30.50/- alone was paid, subsequently after objection by the Registry, the valuation has been reflected as Rs.14,21,500/-



CRP.No.1724 of 2025

and Court Fee of Rs.1,06,586/-.

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12.In view of the above, I do not see any infirmity in the order passed by the Trial Court, rendering a finding that proper Court fee has been paid on the plaintiffs. The order of the Trial Court does not deserve any interference and accordingly, I do not see any merit in the Civil Revision Petition.

13.In fine, the Civil Revision Petition is dismissed. There shall be no order as to costs. The Principal District Judge, Puducherry, shall dispose of O.S.No.21 of 2024, within a period of nine months from the date of receipt of a copy of this order. Connected Civil Miscellaneous Petition is closed.

14.07.2025

Speaking/Non-speaking order
Index : Yes/No
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To

The Principal District Judge, Puducherry.



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CRP.No.1724 of 2025

P.B.BALAJI.J.

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Pre-delivery order made in
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