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CRP No. 2484 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-07-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRP No. 2484 of 2024 & CMP.No.13003 of 2024

1. D.Elizabeth Mary
W/o. J. Dominic Amalraj, Res. at
No.11/5, 30th M.G.R. Street, GKM
Colony, Chennai - 082.

Petitioner(s)

Vs

1. Dominic Amalraj
S/o. P. John, Res. at No.11/5, 30th
M.G.R. Street, GKM Colony, Chennai -
082.

Respondent(s)

PRAYER : Petition filed under Article 227 Constitution of India to set aside the fair and decreetal order passed in I.A No.11 of 2023 in OS No.9 of 2018 by the III Additional Principal Family Court, Chennai dated 07.03.2024.

For Petitioner(s): C/v M/s.G.Ilamurugu

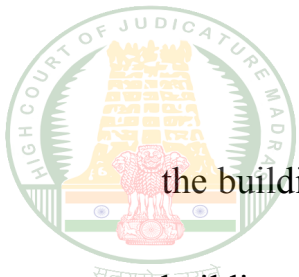
For Respondent(s): Mr.M.Anbalagan
for Ms.S.Vidya,

**ORDER**

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Challenge has been made to the Order of the trial Court, directing the respondent to produce the accurate value of the land and building with the registry and directing the registry to collect the accurate Court Fee under section 25[a] & [b] of the Tamil Nadu Court Fees and Suits Valuation Act, the present Civil Revision Petition has been filed.

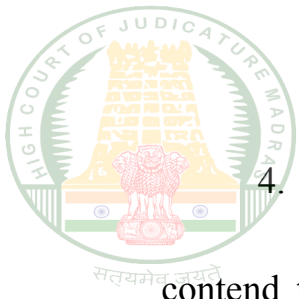
2. The suit has been filed by the wife of the revision petitioner against her husband for declaration that she is a joint owner of the property and for division of the property and for permanent injunction restraining the defendant in any manner alienating the suit property. It is her contention that though the property stands in the name of her husband, it has been purchased out of the funds provided by her. Hence, the suit has been filed. Written statement has been filed, P.W.1 has been examined and cross examined by the respondent. At this stage, an application has been filed under Order VII Rule 11 to reject the plaint inter lia contending that the plaintiff has calculated her share as 585 sq.ft. and paid a sum of Rs.58,795/- towards Court Fee. According to the respondent,



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the building consists of Ground Floor, first floor and third floor and ignored the building area as 3350 sq.ft. Hence, on that ground, the suit has to be rejected as the deficit Court fee of Rs.2 lakhs has not been paid. That application has been opposed by the respondent. However, the trial Court, taking note of the commissioner Report and Engineer's report filed by the respondent, wherein the value of the building is mentioned as Rs.1,42,66,434 and total amount would come around Rs.3,10,16,434/-, the trial Court directed the petitioner to pay sufficient Court fee within three weeks. Challenging the same, the present Civil Revision has been filed.

3. The main contention of the learned counsel appearing for the petitioner is that the defendant is entitled to raise objections with regard to payment of Court Fee before the statement being filed or atleast before evidence to be taken. Whereas, in this case, after examination of P.W.1, this application has been filed. Hence, at this stage, the issue of Court Fee cannot be raised.



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4. Whereas, the learned counsel appearing for the respondent would contend that the correct value of the building has not been disclosed in the plaint. Therefore, the trial Court has rightly directed the respondent to pay the deficit Court Fee.

5. I have perused entire materials. It is relevant to extract Section 12 of Tamil Nadu Court Fees and Suits Valuation Act, for better appreciation of the facts of this case :

12. Decision as to proper fee in other Courts.

(1) In every suit instituted in any Court other than the High Court, the Court shall, before ordering the plaint to be registered, decide on the materials and allegations contained in the plaint and on the materials contained in the statement, if any, filed under section 10 the proper fee payable thereon, the decision being however subject to review, further review and correction in the manner specified in the succeeding sub-sections.

(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

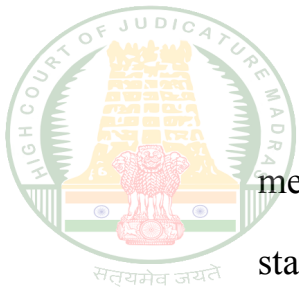


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been properly valued or that the fee paid is not sufficient. All questions arising on such pleas shall be heard and decided before evidence is recorded affecting such defendant, on the merits of the claim. If the Court decides that the subject-matter 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.

(3) A defendant added after issues have been framed on the merits of the claim may, in the written statement filed by him, 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, and if the Court finds that the subject-matter of the suit has not been properly valued or that the fee paid is not sufficient, the Court shall follow' the procedure laid down in subsection (2).

Explanation. - Nothing in this sub-section shall apply to a defendant added as a successor or a representative in interest of a defendant who was on record before issues were framed on the



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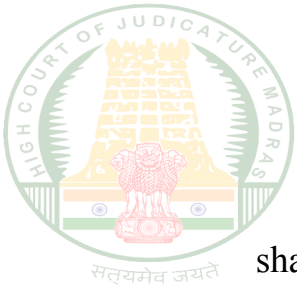
merits of the claim and who had an opportunity to file a written statement pleading that the subject-matter of the suit was not properly valued or that the fee paid was not sufficient.

(4)(a) Whenever a case comes up before a Court of Appeal, it shall be lawful for the Court, either of its own motion or on the application of any of the parties, to consider the correctness of any order passed by the lower Court affecting the fee payable on the' plaint or in any other proceeding in the lower Court and determine the proper fee payable thereon.

Explanation. - A case shall be deemed to come before a Court of Appeal even if the appeal relates only to a part of the subject-matter of the suit.

(b) If the Court of Appeal decides that the fee paid in the lower Court is not sufficient, the Court shall require the party liable to pay the deficit fee within such time as may be fixed by it.

(c) If the deficit fee is not paid within the time fixed and the default is in respect of r. relief which has been dismissed by the lower Court and which the appellant seeks in appeal, the appeal shall be dismissed, but if the default is in respect of a relief which has been decreed by the lower Court, the deficit fee shall be recoverable as if it were an arrear of land revenue.



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(d) If the fee paid in the lower Court is in excess, the Court shall direct the refund of the excess to the party who is entitled to it.

(5) All questions as to value for the purpose of determining the jurisdiction of Courts arising on the written statement of a defendant shall be heard and decided before evidence is recorded affecting such defendant, on the merits of the claim.

Explanation. - In this section, the expression "merits of the claim" refers to matters which arise for determination in the suit, not being matters relating to the frame of the suit, misjoinder of parties and causes of action, the jurisdiction of the Court to entertain or try the suit or the fee payable but inclusive of matters arising on pleas of res judicata, limitation and the like.

6. The Court can determine appropriate Court Fee in three stages, as per Section 12[1] Tamil Nadu Court Fees and Suits Valuation Act. The first stage, before the plaint being registered, the second stage when the defendant raises the issue in his written statement and the third stage is before evidence is being recorded. as per Section 12 of the Tamil Nadu Court Fees and Suits Valuation Act. Any objections has to be raised by the defendant before the Written statement being filed before the hearing or before the evidence is being taken



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and not beyond that. Therefore, as objections have not been raised at these stages and objections have been raised only at the fag end of the trial, such objections cannot be entertained by the trial Court and on that ground, the suit cannot be rejected. However, the trial Court, merely relying upon the Engineer's Report filed by the respondent directed the revision petitioner to pay the deficit Court Fee. The trial Court has not taken any exercise to determine the appropriate value of the property to assess the Court fee to be levied, instead relied upon the Engineer's report filed by the defendant, that too after cross examination of the witness is over. That Course is not permissible under law, Therefore, the Order directing the parties, when objections have not been raised as per section 12 of the Tamilnadu Court Fees and Suits Valuation Act within the period, to pay the deficit Court merely on the basis of the Engineer's report filed by the defendant, cannot be sustained in the eye of law.

7. Accordingly, this Civil Revision Petition is allowed and the Order of the trial Court in I.A.N.11 of 2023 in O.S.No.09 of 2018 dated 07.03.2024 is set aside. It is stated that joint trial is Ordered and the petition in IDOP.No.2665 of



2018 has to be tried along with the suit in O.S.No.09 of 2018. Hence, the trial

Court is directed to dispose of the petition in IDOP No.2665 of 2018 and the

suit in O.S.No.09 of 2018 expeditiously within a period of four months from the

date of receipt of a Copy of this Order. No costs. Consequently, connected

miscellaneous petition .

29-07-2025

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

To

The III Additional Principal Judge,
Chennai.



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