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CRP No. 5466 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-12-2025

CORAM

THE HONOURABLE MR.JUSTICE S. SOUNTHAR

**CRP No. 5466 of 2025 and
CMP No. 27541 of 2025**

1. Sarasammal

2. A. Ravi

3. A.Sekar

4. V.Mala

5. D. Radhakrishnan

6. Malleeswari

7. Vijayalakshmi

Petitioners

Vs

1. G.Punitha

Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decretal order passed by the learned Additional Subordinate Judge, Ponneri made in IA.No.1 of 2024 in OS.No.18 of 2013 dated 21st March 2025.

For Petitioners: Mr.K.Selvakumar

For Respondent: Mr.R. Munuswamy

ORDER

This Civil Revision Petition is filed challenging the order passed by the trial Court dismissing the application filed by the petitioners/defendants with regard to the valuation of the suit.



2. The respondent/plaintiff herein filed a suit for partition and separate possession of 6/25th share in 'A' schedule properties and 6/50th share in 'B' schedule properties. She also sought for declaration that settlement deed dated 13.02.2003, 29.03.2005 and sale deed dated 22.02.2006 and 21.6.2012 were null and void.

3. In the written statement filed by the petitioners, the petitioners disputed the valuation adopted by the plaintiff in the plaint. It was also stated that plaintiff was not in joint possession of the suit property and hence the suit should have been valued under Section 37(1) of Tamil Nadu Court Fees and Suits Valuation Act, 1965 and the valuation done by the plaintiff under Section 37(2) of the said Act was not correct.

4. The trial was already over and the suit was posted for arguments of defendants. At that stage, the instant application has been filed by the petitioners/ defendants seeking framing of additional issues with regard to the correctness of the valuation adopted in the plaint and also the pecuniary jurisdiction of the Court to entertain the plaint. The said application was opposed by the plaintiff on various grounds including delay. The trial Court dismissed the application mainly on the ground that questions relating to valuation shall be heard and decided before recording of evidence as per section



12 of Tamil Nadu Court Fees and Suits Valuation Act, 1965 and hence, dismissed the application. Aggrieved by the same, the petitioners have come before this court.

5. The learned counsel appearing for the petitioners would submit that the valuation adopted by the plaintiff was specifically disputed in the plaint. In spite of the same, the trial Court failed to frame any issue regarding the valuation and therefore, the petitioners were constrained to file the present application seeking framing of additional issues.

6. The learned counsel appearing for the respondent, by drawing attention of this Court to section 12(2) of Tamil Nadu Court Fees and Suits Valuation Act, 1965, submitted that all questions relating to valuation of the suit shall be decided before recording of the evidence and therefore, the application filed by the petitioners is not at all maintainable at this stage. In support of his contention, the learned counsel relied on the judgment of the Hon'ble Division Bench of this Court in the case of *S.N.S Sukumaran V. C.Thangamuthu* reported in reported in **2012 (5) CTC 705**.

7. The main relief sought for in this suit is partition. As far as the relief regarding invalidity of the sale deed is concerned, the suit has been valued under section 25(d) of the Tamil Nadu Court Fees and Suits Valuation Act, 1965



and there is no dispute with regard to the same. The dispute was raised by the defendants with regard to the valuation of the suit property for the purpose of relief of partition. A perusal of the written statement would clearly indicate that the market value of the suit property mentioned in the plaint was specifically denied and it was also stated that value of the suit property was upto Rs.10,000/- per cent. The plaintiff valued the suit property at Rs.1000/- per cent. Though an objection was raised by the defendants regarding failure of the plaintiff to value the suit property based on guideline value, the said objection is not sustainable, in view of the fact, the suit was filed prior to amendment of Tamil Nadu Court Fees and Suits Valuation Act, in the year 2017.

8. Since the valuation adopted by the plaintiff was specifically denied by the defendants, the trial Court ought have framed an issue with regard to the valuation under the pecuniary jurisdiction. However the same has not been done. As soon as it was noted by the defendants, they have come with this application. The issues can be re-framed at any stage of the suit prior to the delivery of the judgment. Under such circumstances, the defendants are entitled to file application seeking framing of additional issues with regard to the valuation and pecuniary jurisdiction, especially, when necessary pleadings were already made in the written statement.

9. Section 12(2) of Tamil Nadu Court Fees and Suits Valuation Act, 1965



enables the defendants to file application seeking decision on the Court fee question prior to recording of the evidence. If no such application is filed by the defendants, it is always open to the trial Court to frame issues with regard to the Court fees and valuation along with other issues.

10. An issue for consideration arises whenever there is an assertion in the plaint and denial in the written statement. In this case, the plaintiff asserted the market value of the suit property was Rs.1000/- per cent and valued the suit accordingly. However, the defendants filed written statement and claiming the value of the suit property would be upto Rs.10,000/- per cent. An objection was also raised by denying the joint possession claimed by the plaintiff and therefore, it was stated that **advalorem** Court fee should have been paid by valuing the suit under section 37(1) of Tamil Nadu Court Fees and Suits Valuation Act, 1965. Therefore, there is a controversy in the pleadings with regard to the valuation of the suit by the plaintiff.

11. The Hon'ble Division Bench of this Court in **S.N.S.Sukumaran** case cited supra, has given certain guidelines for considering questions regarding the valuation and payment of the Court fee. The relevant portion reads as follows

31. After giving our anxious consideration to the matter and having regard to the law discussed hereinabove, the reference is answered as under:



(1) *The Tamil Nadu Court Fees and Suits Valuation Act, 1955 (Section 12) enacted by the State Legislature on a subject covered by the Concurrent List, albeit inconsistent with the provisions of the Code of Civil Procedure (Order 14, Rule 2) and being in compliance with the requirement of Article 254 of the Constitution of India, having been given assent by the President of India, shall prevail over the provisions of the Code of Civil Procedure.*

(2) *When a Defendant comes forward with a case pleaded in the Written Statement questioning the correctness of the valuation of the suit property and payment of Court-fee and asks the Court, by an Application, to decide it first before deciding the Suit on merits, then a duty is cast upon the Court under Section 12(2) of the State Act to first decide the objection before deciding the Suit on merits.*

(3) *However, before proceeding to decide the objection with regard to valuation and Court-fee as provided under Section 12(2) of the State Act, the Court shall prima facie satisfy itself, on perusal of the pleadings of the parties and the materials brought on record, that the objection raised by the Defendant has substance.*

(4) *Such objection with regard to improper valuation of the Suit and insufficiency of Court-fee shall be entertained by the Court only before the hearing of the Suit on merits commences and witnesses are examined. Section 12(2) of the State Act makes it clear that such objection shall be heard and decided before evidence is recorded on the merits of the case.*

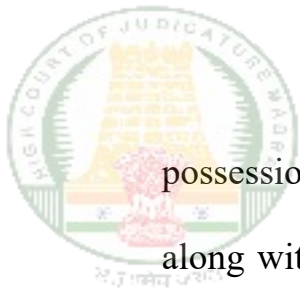
(5) *Exercise of right by the Defendant as contained in Section*



12(2) of the Act must be bona fide and not with an ulterior motive of dragging the Suit on this issue. Hence, the Court shall not grant unnecessary adjournments in hearing of such Application, and in the event the Court finds that the Defendant is not diligent or co-operating with the Court in the disposal of such objection expeditiously, then the Court shall proceed with the hearing of the Suit on merits and decide all issues, including the one relating to the valuation of the Suit and the adequacy or otherwise of Court-fee, together. [Emphasis supplied by this Court]

12. The guidelines issued by the Hon'ble Division Bench of this Court in paragraph 31(5) would indicate that if the Court is not satisfied with regard to *bona fides* of the claim made by the defendant regarding objection as to Court fees, the Court can proceed with the hearing of the suit on merits and decide all the issues including the one relating to valuation of the suit and adequacy or otherwise of the Court fees. Therefore, it is clear that there is no specific bar for considering the question of valuation and payment of Court fee as one of the issues along with other issues. Of course, if an application under section 12(2) is filed by the defendants, certainly the Court fee question shall be decided prior to the recording of evidence. In case, if no such application filed by the defendants, the Court can very well decide the correctness of the valuation and the Court fee payable as one of the issue along with other issues.

13. In the case on hand, objection raised by defendant regarding joint



possession claimed by plaintiff is a matter for evidence. Hence it can be decided along with other issues during trial, especially in the absence of petition under Section 12(2) of Court Fees Act. Therefore, the impugned order passed by the trial Court is set aside and the trial Judge is directed to frame an additional issue with regard to the valuation and the Court fee payable on the plaint. The I.A filed by the petitioners is partly allowed accordingly.

14. After framing of issues regarding the valuation, if the parties prefer to lead additional evidence, they are entitled to do so. However, it is made clear that the recording of evidence shall commence immediately after framing of additional issues and the same shall be completed within a period of four weeks from the date of framing of additional issues. Thereafter, the trial Court shall consider the arguments of the parties and dispose of the main case as expeditiously as possible. No costs. Consequently connected miscellaneous petition is closed.

12-12-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To
The Additional Subordinate Judge
Ponneri

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S.SOUNTHAR J.

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