



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:27.06.2025

Pronounced on:18.07.2025

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THE HONOURABLE MR.JUSTICE P.B.BALAJI
CRP. PD. No.2443 of 2025
and CMP. No.14004 of 2025

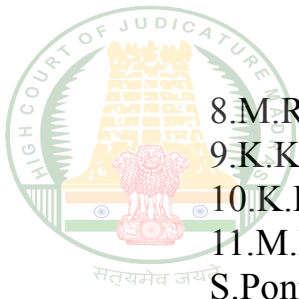
Indrani (Died)

- 1.R.Damodaran
- 2.Rajendran
- 3.Venugopal
- 4.K.C.Mohan Kumar
- 5.Vani
- 6.Subburaj @ Athiyaman
- 7.Anandan
- 8.Bagyalakshmi
- 9.Shanthamani
- 10.Premavathy
- 11.C.R.S.Senthil Prabhu
- 12.C.R.S.Jai Prabhu
- 13.C.R.Padma
- 14.M/s.Adhi Tamiler Paravai,
Carrying on business at
No.713, Mettupalayam,
Coimbatore.
- 15.Lalitha
- 16.R.Murugesan
- 17.M.Sivakumar
- 18.M.Vivekanandan

Petitioner(s)

Vs

- 1.K.Subramani
- 2.Gokila
- 3.D.Parimala
- 4.D.Prabhavathy
- 5.D.Uma
- 6.D.Maheshwari
- 7.D.Kalavathi



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- 8.M.Rajeswari
- 9.K.Kuppuraj
- 10.K.Rajendran
- 11.M.Rajeswari
- S.Ponnuraj (Died)
- 12.P.Usharani
- 13.P.Prakash Kumar
- 14.K.Jayalakshmi
- 15.S.Balasundaram
- 16.B.Hemalatha
- 17.B.Sampathkumar
- 18.B.Sripriaya
- S.Shanmugasundaram (Died)
- 19.S.Vijayakumar
- 20.S.Senthil
- 21.S.Amirtham
- R.Chandran (Died)
- Saraswathi (Died)
- 22.M/s.Balaji Wooden Beadings,
Rep. by Saravanan,
Carrying on business at
No.703, Mettupalayam Road,
Coimbatore.
- 23.M/s.Jayalakshmi Timbers,
Rep. By Mohan,
Carrying on business at
No.704, Mettupalayam Road,
Coimbatore.
- 24.M/s.Utham Sun Micka,
Rep. By Praveen Bai Patel,
Carrying on business at
No.705, Mettupalayam Road,
Coimbatore.
- 25.M/s.Mahaveer Laminates,
Rep. By Rajendra U Metha &
Prakash Metha and
Rakesh Metha, Carrying on business at
No.706, Mettupalayam Road,
Coimbatore.
- 26.M/s.Ajantha Timber Depot,
Carrying on business at
No.707, Mettupalayam Road, Coimbatore.



27.M/s.R.V.Bakery,
Carrying on business at
No.708, Mettupalayam Road,
Coimbatore.

28.M/s.Golden Aquarium,
Carrying on business
No.709, Mettupalayam Road,
Coimbatore.

29.M/s.Veena Agency,
Carrying on business at
No.710, Mettupalayam Road,
Coimbatore.

30.Aravind

31.Ashok

32.Aishwarya

Respondent(s)

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 20.01.2025 passed by the learned III Additional District Judge, Coimbatore in C.M.A. No.33 of 2017 reversing the fair and final order dated 12.07.2017 passed by the learned 1st Additional Subordinate Judge, Coimbatore in I.A. No.302 of 2017 in O.S. No.732 of 2010.

For Petitioners : Mr.L.Mouli

For Respondents : Mr.Krishnakumar,
for M/s.Sarvabhauman Associates
for R1 to R21

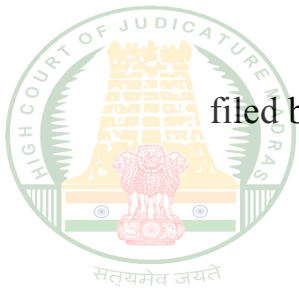
ORDER

The revision petitioners are defendants in O.S.No.732 of 2010. The said suit has been filed for a relief of declaration and delivery of possession. Some of the defendants took out an application to reject the plaint on the ground of limitation. The said Application under Order VII



Rule 11 CPC was dismissed holding that limitation was a mixed question of law and facts and can be decided only after Trial. Thereafter, Trial commenced and on the side of the plaintiffs and P.W.1 was examined. In the course of cross examination, P.W.1 has admitted that the cost of the building in the suit property alone would be of a value of Rs.1,50,00,000/- and also admitted that the land cost on the date of filing of the suit was above Rs.4.5 crores.

2. Taking advantage of such admissions made by P.W.1, the defendants took out an Application to return the plaint under Order VII Rule 10 CPC to be presented before the proper Court, after making up the deficit Court fee. The said Application was initially allowed by the Trial Court as against which the appellants filed C.M.A.No.38 of 2017 before the learned III Additional District Judge, Coimbatore. The said CMA came to be allowed holding that the Trial has commenced and the provisions of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 would prevail over Code of Civil Procedure, 1908 and having already filed a petition to decide the issue of valuation and insufficient Court fee at the preliminary stage, they cannot make use of the provisions of the Order VII Rule 10 CPC to return the plaint, that too, after trial has commenced. Challenging the same, the present revision petition has been



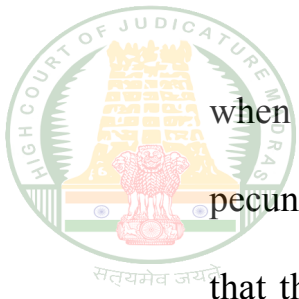
filed by the petitioners.

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3. I have heard Mr.L.Mouli, learned counsel for the petitioners and Mr.Krishnakumar for M/s. Sarvabhauman Associates, learned counsel for the respondents 1 to 21.

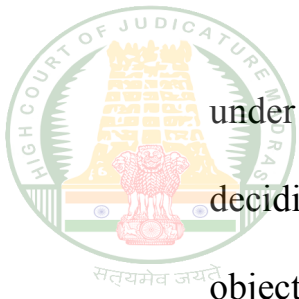
4. The learned counsel for the petitioners, Mr.L.Mouli would contend that the First Appellate Court has not considered the scope of the provisions of the Order VII Rule 10 CPC which enable the Court to return the plaint, to be presented to the Court in which the suit should have been instituted in the first instance and that such power can be exercised at any stage of the suit. He would further state that the First Appellate Court has not even discussed, the admission of P.W.1 regarding the value of the property land and building which was clearly pointing to the fact that the suit was undervalued and further the Court trying the suit did not have the pecuniary jurisdiction to try the same, in the first place.

5. The learned counsel for the petitioners would further state that even if the defendants had not taken out an Application under Section 12 of the Tamil Nadu Court Fees and Suit Valuation Act, yet they were not precluded from filing an Application under Order VII Rule 10 CPC,



when P.W.1 had admitted that the value of the suit was far above the pecuniary jurisdiction of the Court trying the suit. He would further state that the judgment of the First Appellate Court holding that these issues would be tried after recording evidence and at the time of passing judgment, would only be a futile exercise, besides also wasting with respect to the valuable judicial time. He would therefore pray for the Civil Revision Petition being allowed.

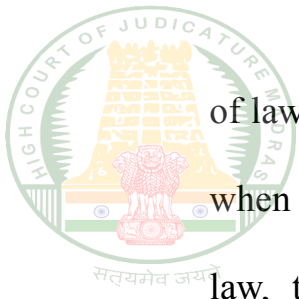
6. Per Contra, Mr.Krishnakumar learned counsel for the respondents 1 to 21 /plaintiffs would submit that the Trial Court had erroneously ordered return of the plaint without considering the fact that the defendants had not raised the issue of improper valuation and insufficient Court fee at the earliest point of time and he would also rely on the decision of the Hon'ble Division Bench of this Court in *S.N.S.Sukumaran Vs. C.Thangamuthu*, reported in 2012-5-L.W.197, where the Hon'ble Division Bench of this Court, held that Section 12 of the Tamil Nadu Court Fees and Suits Valuation Act 1955, though being inconsistent with the provisions of under Order XIV Rule 2 CPC would prevail over the provisions of the CPC and that when a defendant comes forward with a case in the written statement questioning the correctness of the valuation and payment of Court fees, a duty cast upon the Court



under Section 12(2) of the Act to first decide the objection before deciding the suit on merits. The Hon'ble Division Bench also held that objection with regard to improper valuation shall be entertained only before hearing of the suit on merits commences and witnesses are examined. In fact, the First Appellate Court has relied on the said decision to allow the Appeal at the instance of the plaintiffs holding that trial has already commenced and the defendants having lost their right to seek necessary enquiry under Section 12(2) of the Tamil Nadu Court Fees and Suits Valuation Act, cannot now seek for return of the plaint under Order VII Rule 10 CPC.

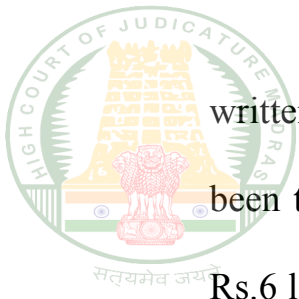
7. I have carefully considered the submissions advanced by the learned counsel on either side.

8. Before proceeding to discuss the facts of the present case, it is to be borne in mind that the issue before the Hon'ble Division Bench in *S.N.S.Sukumaran's* case, (referred herein supra) and also relied on by the First Appellate Court, as well the learned counsel for respondents 1 to 21/plaintiffs, was an issue relating to conflict between Order XIV Rule 2 of CPC, conferring a power upon the Court to pronounce judgment on all issues with an exception to the general Rule that whether the issues, both



of law and fact arises in the same suit and the Court is of the opinion that when the case or any part therefore may be disposed of on the issue of law, the Court may try that issue first and if that issue relates to jurisdiction of the Court or a bar to the suit created by any law. It is only in the context of the said provision of Order XIV Rule 2 of CPC, the applicability of Section 12(2) of the Court Fees Act was tested and ultimately it has been held that the provisions of Court Fees Act would prevail and therefore when the defendants make an Application or take an objection in the written statement with regard to valuation and Court fee, then such issue would have to be tried as a preliminary issue, subject to the defendants raising the issue before trial commences.

9. The facts of the present case are quite peculiar. Though the suit has been valued by the plaintiffs at Rs.6 lakhs, the defendants have objected to the said valuation in the written statement filed by the defendants 17 to 19 and 24. It is contended that since defendants 5 and 7 to 11 have only filed Applications to reject the plaint under Order VII Rule 11 CPC, these defendants have adopted the grounds raised by those defendants seeking rejection of the plaint, the question of improper valuation or insufficient Court fee has not been specifically raised in the said written statement filed by the defendants 17 to 19 and 24. In the



written statement of both defendants 5 and 7 to 11, a specific plea has been taken in paragraph No.22 that the valuation of the suit property at Rs.6 lakhs is far below even the guideline value and that the value of the property is more than 4 crores for the land alone, leave alone the superstructure. They have also requested the Court to take suitable steps to assess the value of the property in order to give direction to the plaintiffs to pay proper Court fees.

10. However, admittedly the issue of improper valuation and insufficient Court fee was not taken up as a preliminary issue. On the other hand, the Application for rejection of the plaint, taken out by some of the defendants, was heard and the issue that was raised in the said Application being relating to limitation, the trial Court held that the limitation was a mixed question of law as well as fact and hence the suit cannot be dismissed holding that it is barred by law of limitation, without even a trial giving an opportunity to the parties to lead oral and documentary evidence.

11. Subsequently, the parties have gone to trial. No doubt, the defendants who have raised the specific issue of improper valuation and insufficient Court fee have not insisted upon the Court to take up the



issue as a preliminary issue. Later, when P.W.1 was being cross examined, he admitted in no uncertain terms that the value of the property is about Rs.4 crores and not Rs.6 lakhs as mentioned in the plaint, even on the date of institution of the suit. In the light of the said candid admission having been made by P.W.1, the defendants have immediately taken out an Application under Order VII Rule 10 CPC for returning the plaint to be presented before the proper Court. The defendants, no doubt, may have lost their right to seek for the issue of improper valuation and insufficient Court fees being paid on the plaint, by not resorting to the provisions of Section 12(2) of the Tamil Nadu Court Fees and Suits Valuation Act.

12. However, the present order which is now under challenge, is only an Application to return the plaint, to be presented before the proper court. The said Application is only based on the admissions of P.W.1 regarding the valuation of the suit property on the date of the plaint. Therefore, the defendants/revision petitioners are not seeking for any enquiry for ascertaining whether proper Court fee has been paid on the plaint or whether the suit property has been valued properly. They have only taken advantage of the admissions of P.W.1 and approached the Court stating that in view of such admissions of P.W.1, the suit cannot be



tried before the Court, in view of the said Court lacking a pecuniary jurisdiction to try the suit.

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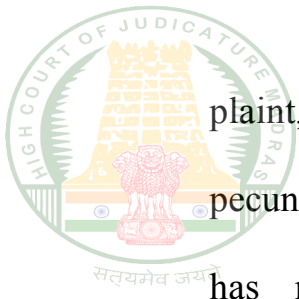
13. Order VII Rule 10 of CPC enables the Court to return the plaint at any stage of the suit, to be presented to the Court in which the suit should have been instituted. Order VII Rule 10 A deals with a scenario where in a suit, after the defendant has appeared, if the Court is of the opinion that the plaint should be returned, it shall before doing so intimate the decision to the plaintiff. Under Rule 10A (2), the plaintiff is given an option to make an Application to the Court stating the Court to which he proposes to present the plaint after return and also to fix a date for appearance of the party in the said Court and requesting notice of such date to be given to the plaintiff as well as the defendant. Under 10(A) (3) when such Application was made by the plaintiff, in terms of sub Rule (2) then, the Court is required to return the plaint, notwithstanding that the order for return of plaint was made on the ground that it has no jurisdiction to try the suit and shall also fix a date for appearance of the parties in the said suit to which the plaint is to be presented by the plaintiff and give notice of such date for the appearance of the parties before the other Court, where the suit is proposed to be presented.



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14. From a reading of Order VII Rule 10 and 10A of CPC, what emerges is that a plaint can be returned at any stage of the suit and Rule 10 contemplates even a Court, on appeal or revision to set aside the decree passed in a suit can return the plaint to be presented to the Court in which, the suit should have been instituted. The Trial Court having found that P.W.1 had admitted that the valuation on the date of the suit was not Rs.6,00,000/-, but was about Rs.4 Crores, found that the suit cannot be tried before the Trial Court and proceeded to allow the Application under Order VII, Rule 10 CPC. However, the first appellate Court relying on the ratio laid down in *S.N.S.Sukumaran's* case, (referred herein supra) reversed the findings of the Trial Court and held that defendants have missed their opportunity to take out an Application under Section 12(2) of the Tamil Nadu Court Fees and Suits Valuation Act and therefore, they were precluded from seeking for return of plaint under Order VII Rule 10 CPC.

15. As already discussed, the petitioners do not intend to conduct any enquiry on the valuation or insufficient Court fee to be paid. It is only in the light of the admissions of P.W.1 himself admitting the market value of the property as on date of the institution of the suit that has propelled the petitioners to move the Application seeking return of the



plaint, as the Court to which it has been presented does not even have the pecuniary jurisdiction to try the suit. Therefore, the First Appellate Court has misdirected itself in relying on the ratio laid down in *S.N.S.Sukumaran's* case, (referred herein supra) which was on an issue of clash between Order XIV Rule 2 CPC and Section 12(2) of the Court Fees Act. No doubt when the defendant intends to question the valuation or Courts fee paid on the plaint, he has to exercise his right, either by filing an independent Application in that regard or in the written statement and such issue would have to be decided as a preliminary issue, before commencement of the trial. The failure of the defendants to do so in the present case will not prevent them from filing an Application under Order VII Rule 10 CPC.

16. Admittedly P.W.1 himself has accepted in cross that the value of the property is about Rs.4 crores on the date of filing of the suit and not Rs.6 lakhs as valued in the plaint. Therefore, in the light of such admission, there is not even a scope for conducting an enquiry under Section 12 of the Court Fees Act. The Trial Court, rightly finding that in view of the P.W.1's admission regarding valuation, the Court did not have the pecuniary jurisdiction, ordered return of the plaint, which is permissible at any stage of the suit.



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17. As rightly contended by the learned counsel for the petitioners, if this issue is decided after full fledged trial and arguments are heard, the only option that would be open to the Court is to return the plaint, finding that it does not have pecuniary jurisdiction to try the suit. Therefore, it would be a futile exercise and waste of valuable judicial time to direct the parties to undergo the process of a lengthy trial and thereafter decide the issue of pecuniary jurisdiction. The First Appellate Court has failed to see that the petition was necessitated only pursuant to the admissions of P.W.1 and was not on the basis of the averments in the written statement that the plaint was under valued. Under explanation Order VII Rule 10 CPC, even the First Appellate Court or revisional Court has the power to return the plaint and direct presentation of the same before the Court to which it has to be presented.

18. In view of the above, I am unable to sustain the findings of the First Appellate Court. The findings of the Trial Court are restored and I.A. No.302 of 2017, directing to return the plaint is ordered. The Civil Revision Petition is ***allowed***. The plaintiffs are at liberty to file the plaint before the Competent Court having pecuniary jurisdiction, after paying the deficit Court fee and amending the valuation in the light of the



admissions of P.W.1. The plaintiff is given eight (8) weeks time to take return of the original plaint and represent the same before the Court to which the plaint has to be represented, in accordance with law, complying with the above directions regarding payment of deficit Court fee and amendment of the valuation column. Connected Miscellaneous Peition is closed. No costs.

18.07.2025

rkp
Index : Yes
Internet : Yes

To:

- 1.The III Additional District Judge, Coimbatore.
- 2.The 1st Additional Subordinate Judge, Coimbatore



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CRP. PD. No.2443 of 2025



P.B.BALAJI, J.,

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Pre-delivery order in
CRP. PD. No.2443 of 2025
and CMP. No.14004 of 2025

18.07.2025