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C.R.P.Nos.667 and 668 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14/2/2025

C O R A M

The Hon'ble **Ms.JUSTICE P.T.ASHA**

C.R.P.Nos.667 and 668 of 2020
a n d
C.M.P.Nos.3469 and 3466 of 2020

1. P. Manoghar

2. P. Prabhakar

...

Petitioners

Vs

1. K. Balaji

2. A.R.Parthasarathy

3. P. Jayakumar

4. The Tahsildar
100 feet Road
Mambalam – Guindy Taluk
Chennai 600 083.

...

Respondents

Petition filed under Article 227 of the Constitution of India against the order dated 18/2/2019 and decretal order made in I.A.Nos.16483 and 1386 of 2016 and 2017, respectively in O.S.No.3906 of 2013, pending on the file of XVI Assistant City Civil Court, Chennai.



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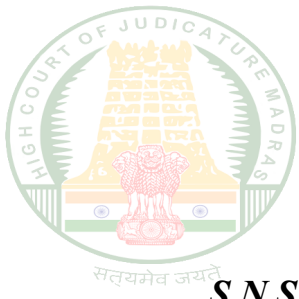
For petitioners	...	Mr.Rajendran for Mr.Norton and Grant
For respondents	...	Mr.B.Mohan for R.1
		R.2 – served
		R.3 – Not ready in notice
		Mr.V.Ramesh Government Advocate for R.4

COMMON ORDER

These Civil Revision Petitions have been filed against the order dated 18/2/2019 made in I.A.Nos.16483 of 2016 and 1386 of 2017, respectively in O.S.No.3906 of 2013, pending on the file of XVI Assistant City Civil Court, Chennai.

2. The point that arises for consideration in these Civil Revision Petitions are as follows:-

“Whether payment of Court fee on the
plaint has to be decided as a preliminary issue?”



3. A decision of the Hon'ble Division Bench of this Court in

S.N.S.SUKUMARAN & OTHERS Vs. C. THANGAMUTHU & OTHERS

(CDJ 2012 MHC 4914) has been placed before this Court and the relevant portion of the order reads thus:-

“(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



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merits and before trial 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.

4. Considering the aforesaid decision, it is clear that the issue of Court fees when raised has to be tried first even before trial commences and therefore, the impugned order appears to be in line with aforesaid decision.



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5. In the result, these Civil Revision Petitions are dismissed.

Accordingly, learned XVI Assistant Judge shall take up the issue of Court fees and dispose of the same, before the trial is commenced. The learned Judge, after hearing the argument shall pass appropriate orders on merits and in accordance with law, within a period of two months, from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

14/2/2025

mvs.

Index: Yes/No

Neutral Citation: Yes/No

To

XVI Assistant City Civil Court, Chennai.



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