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CRP.No.5169 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.5169 of 2025 and
CMP.No.26079 of 2025

Thangavel @ Lingasamy

... Petitioner

Vs.

Nataraj

...Respondent

PRAYER :Civil Revision Petition filed Article 227 of Constitution of India, praying, to set aside the order and final order dated 22.08.2025 in IA No. 1 of 2024 in OS No. 119 of 2024 on the file of the III Additional District and Sessions Judge, Dharapuram.

For Petitioner

: Mr.K.Sudhakar

ORDER

The Civil Revision Petition is filed challenging the dismissal of the petition filed by the petitioner/1st defendant under Section 12(2) of the Tamil Nadu Court-Fees and Suits Valuation Act, 1965 seeking to decide the question of valuation as a preliminary issue.



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2. The respondent herein/filed a suit for partition against the petitioner and others. According to the respondent, the suit properties are ancestral properties and the suit was valued under Section 37(2) of Court Fees Act on the ground that all the parties are in joint possession of the property.

3. The petitioner/1st defendant filed a written statement and raised the plea of ouster. According to the petitioner, the respondent never enjoyed the property and he was completely ousted from the suit property. Since it was pleaded by the petitioner that the respondent was out of possession, according to him, the property shall be valued under Section 37(1) of Court Fees Act on the market value. The instant application under Section 12(2) of Court Fees Act is filed seeking framing of preliminary issue with regard to the Court fees.

4. It is not in dispute that the suit properties are ancestral properties and the parties are siblings. Whether the respondent, who is none other than the brother of the petitioner, is completely ousted from the property or in joint possession of the property is a matter to be decided based on the evidence at the time of final disposal. In the plaint, the respondent/plaintiff claimed that he is in joint possession of the property and the initial presumption is in his



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favour. In such circumstances, the court below rightly came to the conclusion that the point raised by the petitioner can be decided only at the time of final disposal after recording the entire evidence. I do not find any error in the order passed by the court below. Accordingly, the Civil Revision Petition stands dismissed.

5. However, it is made clear that the petitioner is entitled to raise point with regard to the valuation at the time of final disposal. The court below shall frame a separate issue with regard to the correctness of the value adopted by the plaintiff. Consequently, the connected miscellaneous petition is closed. No costs.

29.10.2025

Index : Yes / No
Internet : Yes / No
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To

The III Additional District and Sessions Judge, Dharapuram.



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S.SOUNTHAR , J.

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