



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-04-2026

CORAM

THE HON'BLE MR.JUSTICE K.RAJASEKAR

CRP No. 1620 of 2023

and

CMP No. 10557 of 2023

T.Kanagaraj
S/o Thangapala Nadar, Old No 4, New No 7,
Thiruvalluvar Street, Dhandeeswaram Nagar
Extension, Velachery, Chennai 600 042.

..Petitioner(s)

Vs

H.Sukanya
D/o I.High Court Durai, New No 5, Thiruvalluvar
Street, Dhandeeswaram Nagar Extension,
Velachery, Chennai 600 042.

..Respondent(s)

Civil Revision Petition filed under Article 227 of the Constitution of India, prayed to set aside the decretal order and order dated 18.02.2023 made in I.A.No. 9794 of 2018 in O.S.No.937 of 2017 on the file of the XIII Assistant Judge (FAC), XIV Assistant Court, City Civil Court at Chennai.

For Petitioner(s): Mr. R.Rajesh

For Respondent(s): No Appearance

ORDER

The Civil Revision Petition has been filed by the petitioner to set aside the order dated 18.02.2018 passed in I.A.No.9794 of 2018 in O.S.No.937 of 2017 on the file of the XIII Assistant Judge (FAC), XIV Assistant Court, City Civil Court, Chennai, whereby, the Trial Court dismissed the petition filed



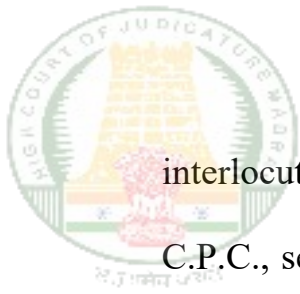
under Order XIV Rule 1 of Code of Civil Procedure, 1908 (C.P.C.,) by the petitioner/defendant seeking framing of a preliminary issue with regard to the value of the suit property and payment of Court fee.

2. The respondent/plaintiff filed the suit in O.S.No.937 of 2017, seeking a decree of mandatory injunction directing the defendant to handover possession of the suit property and also for damages from the defendant.

3. It is stated that the suit property originally belonged to the plaintiff's father, who had constructed the house thereon, and that the defendant being a friend of the plaintiff's father was permitted to occupy the premises.

4. According to the petitioner/plaintiff, the plaintiff's father and her brother applied for a bank loan, during which time the bank officials inspected the premises/suit property. At that time, the defendant obstructed the officials from entering into the property. Thereafter, the plaintiff demanded the defendant to vacate and handover the possession of the property. Since the defendant refused and allegedly caused disturbance for the reasons best known to him, the plaintiff filed the suit for mandatory injunction directing the defendant to vacate and handover the possession of the property.

5. The defendant had filed a written statement and also filed an



interlocutory application in I.A.No.9794 of 2018 under Order XIV Rule 1 of C.P.C., seeking to frame a preliminary issue regarding the valuation of the suit property and payment of Court fee.

6. The said application was opposed by the respondent/plaintiff contending that no dispute regarding title or valuation had been raised in the written statement and that the application was filed only for the purpose of delay the proceedings and avoid handing over the possession of the suit property.

7. The Trial Court after considering the submissions and taken a view that conducting a preliminary enquiry to decide the issue of valuation and Court fee of the suit property is not warranted at that stage and that the suit is filed against a permissive occupant for mandatory injunction is maintainable. Accordingly, the application was dismissed.

8. The Trial Court further observed that the defendant had not raised any specific plea regarding title in the suit property and that the application was filed at a stage when the suit was posted special list for trial. It was also observed that the issue relating to valuation and court fee could be decided during the course of trial.



9. Aggrieved over the above findings of the Trial Court in I.A.No.9794 of 2018, vide order dated 18.02.2023, the petitioner/defendant has filed the present Civil Revision Petition.

10. The learned counsel for the petitioner/defendant submitted that the suit in O.S.No.937 of 2017, though framed as one for mandatory injunction, is in substance of the suit for recovery of possession and ought to have been valued under Section 30 of the Tamil Nadu Court Fees and Suits Valuation Act, 1955 (hereinafter referred to as '*the Act*'). It was contended that the plaintiff has wrongly invoked Section 27(c) of the Act, which is impermissible. Hence, the Trial Court ought to have framed a preliminary issue and decided the same before proceeding with the trial.

11. In support of his contention, the learned counsel for the petitioner relied upon an unreported order of this Court in C.R.P.No.2983 of 2021 dated 04.01.2022, in the case of **G. Senthamaraikannan v. C. Manavalan and one another**. More particularly, referring paragraph No.6 of the said order, which is extracted hereunder:-

“6. Be that as it may, it is clear that the prayer in the suit is one for recovery of possession and the same has to be valued under Section 30 of the Court Fees Act. The plaintiff cannot by sheer manipulation value the suit under Section 27(c) of the Suit Tamil Nadu Court Fees and Suits Valuation Act, 1955 and seek



recovery of possession of the property. Hence, this Civil Revision Petition fails and it is accordingly, dismissed. Consequently, connected Miscellaneous Petition is closed. No costs."

12. Though the respondent had entered appearance earlier, there is no representation on behalf of the respondent today.

13. This Court has considered the submissions made by the learned counsel for the petitioner and perused the materials available on record.

14. Though the Trial Court had dismissed the application in I.A.No.9794 of 2018 vide order dated 18.02.2023 in respect of the issue of payment of Court fee and valuation of the suit property, however, it has held that it will be decided in the course of trial.

15. Now it is admitted by the learned counsel for the petitioner/defendant that the trial has already progressed and the suit is posted for recording defendant's side evidence. It is also observed that no specific plea regarding title has been raised by the defendant and that question as to whether the suit has to be valued under Section 27(c) of the Act, or Section 30 the Act is applicable can be decided at the time of trial.



16. Considering the fact that the suit is of the year 2017, and the trial has substantially progressed and also taking note of the fact that after the lapse of 9 years, the present Civil Revision Petition has been filed, this Court is of the view that it is not necessary to direct the Trial Court to frame and decide a preliminary issue at this stage of case reaching for recording defendant's side evidence. However, this Court directs the Trial Court to proceed with the trial and dispose of the suit at the earliest as possible.

17. With the above observations and directions, this Civil Revision Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is also closed.

01-04-2026

Neutral Citation: Yes/No

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To

1. The learned XIII Assistant Judge (FAC),
XIV Assistant Court, City Civil Court, Chennai.
2. The Section Officer,
V.R. Section, High Court of Madras.



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CRP No. 1620 of 2



K.RAJASEKAR, J.

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