



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 29.04.2026 ::: Pronounced on : 05-06-2026

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THE HON'BLE MR.JUSTICE K.KUMARESH BABU

**CRP No. 937 of 2021
and CMP No. 7585 of 2021**

C. Kadirvelu (deceased)

1. Nithyakalyani .K
2. Dr. K. Arun Prasad
3. K. Aravind Prasad
4. K. Amarendra Prasad

..Petitioner(s)

Vs.

1. C. Dayalan(Died)
2. C Mangaikarasi
3. C Arun
4. C Rajee
5. Thaenmozhi

[Sole Respondent died. Respondents 2 to 5 brought on record as LR's of the deceased Sole Respondent viz., C.Dayalan vide court order dated.30/11/2022 made in CMP No.10917 of 2021 in CRP No.937 of 2020 by RHJ.]

..Respondent(s)

Prayer : This petition has been filed to set aside the order dated 11.02.2021 passed in Check-slip dated 25.09.2019 in AS No.2/2019 on the file of the Subordinate Judge, Gudiyattam, Vellore District in OS No.48 of 2012 dated 29.10.2018 on the file of the District Munsif, Gudiyattam passed by the Hon'ble Judge by allowing the present CRP.

For Petitioner(s):

Mr.K.Bijai Sundar

For Respondent(s):

R1 & R2 - Died

R3 – Not ready in notice

RR4 and 5 – served – No appearance



ORDER

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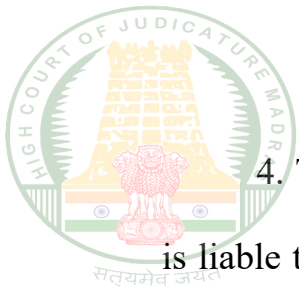
The issue that has been raised is with regard to the Court-fee payable on appeal, which is between the petitioner and the Registry. Even though notices have been ordered to the respondents, this Court finds that to decide the issue in this Revision Petition, their presence is not necessary. In that regard, the appearance of the respondents are dispensed with.

2. The learned counsel for the petitioner would submit that the petitioner had originally filed a suit for declaration valuing the suit at Rs.61,000/- and paid a Court-fee thereof. The same came to be dismissed against which an Appeal Suit came to be filed on the same value as declared before the Trial Court and the Court-fee was also paid on the same basis. The Appeal Suit was heard and was posted for judgment. At that stage, a check slip was issued indicating that the appellant therein would have to value the Appeal as per the amended Act and pay a higher Court-fee based upon the guideline of the suit property as on the date of the filing of the Appeal. He would submit that the check slip had been issued by the learned Subordinate Judge based upon the judgment of a learned Single Judge of this Court made in *Sivakami Vs. Nallathal* reported in **(2018) 2 MWN (Civil) 753**. He would submit that as per Section 52 of the Tamil Nadu Court Fees and Suit Valuation Act, the Court-fee payable is only the same fee that would be payable in the Court of first instance on the subject



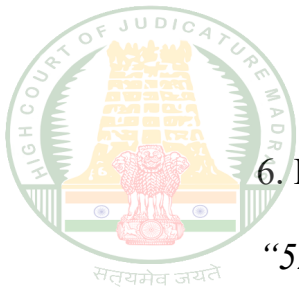
matter of appeal. He would further draw attention of this Court to Explanation 5 of Section 52 of the Act to contend that the market value of the subject matter of Appeal only would have to be ascertained on the basis of the market value on the date of presentation of the plaint and not on the date of presentation of the Appeal. Hence, he would further submit that the judgment that was relied upon to seek higher Court-fee related to the payment of Court-fee under Section 37(1) of the Act, which was a fixed Court-fee as amended is inapplicable. Drawing attention to the judgment of the learned Single Judge of this Court made in *V.Rajaratnam Vs. V.Sivasubramanian and others* reported in **2023 (3) LW 505**, he would submit that this Court had taken a view that the learned Single Judge in the judgment reported in 2018 (2) MWN (Civil) 753 has not taken note of the judgment of the Supreme Court in *K.Raveendranathan Nair Vs. CIT* reported in **(2017) 9 SCC 355** and the judgment of the Division Bench of this Court in *R.M.Seshadri Vs. the Province of Madras* reported in **1954 (67) LW 43** as they were not brought to the notice of the judgment reported in **2017 (9) SCC 355** and had held that the said judgment of the learned Single Judge cannot be a good law. Hence, he seeks indulgence of this Court.

3. I have considered the submissions made by the learned counsel for the petitioner.



4. The issue to be decided in this Revision is as to whether the petitioner is liable to pay the Court fee as issued in the check slip. A check slip had been issued calling upon the petitioner to file the guideline value of the suit mentioned property as on the date of the filing of the suit and to file an affidavit to declare the value of the suit mentioned property as on the date of the filing of the appeal. An objection memo had been filed by the petitioner raising various grounds. The objections of the petitioner had been rejected by the learned Subordinate Judge relying upon Section 52 of the Act by calling upon the petitioner to compute the market value of the property as on the date of filing the appeal.

5. Even though the learned counsel had attempted to raise the correctness based upon two judgments of this Court, this Court refrain itself from entering upon the said issue as the same is not relevant for deciding the present revision. Section 52 of the Act envisages that the fee payable in the appeal should be the same as payable in the Court of first instance on the subject matter of the appeal. Explanations have been appended to the said provisions and Explanations 5 is clear and categorical that the market value of the subject matter of appeal for the purposes of computing and determining the fee payable would be the market value that had been ascertained on the date of presentation of the plaint and not on the presentation of the appeal.



6. For better appreciation, the relevant provision is extracted hereunder:-

“52. Appeals

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Explanation (5).-- Where the market value of the subject-matter of the appeal has to be ascertained for the purpose of computing or determining the fee payable, such market value shall be ascertained as on the date of presentation of the plaint.”

7. The learned Subordinate Judge while rejecting the objections of the petitioner had not taken note of Explanation 5. Reading Explanation 5 along with the main *proviso* would make it clear that for computation of the Court fee payable the value of the property on the date of presentation of the plaint alone would have to be taken and not on the date of filing the suit.

8. For the aforesaid reasons, the Revision Petition stands allowed and the impugned order dated 11.02.2021 and the check slip dated 25.09.2019 are set aside and the learned Subordinate Judge is directed to hear the appeal on merits and decide the same within a period of four years from the date of receipt of a copy of this order. Consequently, Connected Miscellaneous Petition stands closed. No order as to costs.

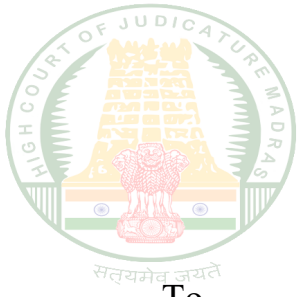
05-06-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

Maya



CRP No. 937 of 2



K.KUMARESH BABU, J.

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To
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1. The Subordinate Judge, Gudiyattam, Vellore District.
2. The District Munsif, Gudiyattam.

CRP No. 937 of 2021

Dated : 05-06-2026