

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:30-10-2006

CORAM

THE HONOURABLE MR.JUSTICE S.ASHOK KUMAR

C.R.P.PD.No.1457 of 2006

M.Thangavelu

... Petitioner

Versus

- 1.Perumayee
- 2.Arukkani
- 3.Saraswathi
- 4.Ettayee
- 5.Bhuvaneswari
- 6.Malarvizhi
- 7.Velan
- 8.Chinnaiya
- 9.Palaniyandi
- 10.Karupayee
- 11.Manoharan
- 12.K.Malarvizhi
- 13.Parimala
- 14.Nirmala

... Respondents

(Respondents 4 to 14 by Power Agent  
Ist Respondent Perumayee)

Civil Revision Petition filed under Article 227 of the Constitution of India against the orders of the Additional District Munsif, Namakkal, endorsed in the compromise memo filed in O.S.No.286 of 2005 dated 17.11.2005.

For Petitioner: Mr.K.Yamunan

ORDER

Aggrieved over the order of the Additional District Munsif, Namakkal, endorsed in the compromise memo filed in O.S.No.286 of 2005 dated 17.11.2005 this civil revision petition has been filed.

2.Brief facts of the case are as follows:

The petitioner/plaintiff filed the suit against the defendants 1 to 14 for partition. He valued the suit at Rs.95,000/- as per the value of 1/20 share for which he is entitled. During the pendency of the suit, the plaintiff and defendants entered into a compromise memo. By virtue of the compromise memo the plaintiff paid money to each of the defendants who have released their shares in favour of the plaintiff. As per the compromise memo the first defendant received a total amount of Rs.6,00,000/-. The said amount is payable to herself as well as the defendants 4 to 14.

2.The learned Additional District Munsif, Namakkal passed an impugned order on 17.11.2005 stating that according to the compromise memo the value of the suit comes to Rs.19 lakhs, but the jurisdiction of the court is only one lakh and the court has no jurisdiction to entertain the compromise and the compromise memo may be filed in appropriate court.

3.Aggrieved over the same, this civil revision petition has been filed by the revision petitioner.

4.Mr.Yamunan, the learned counsel appearing for the revision petitioner would contend that once the suit is numbered it is for the court to take up the compromise memo filed in the suit and pass orders and the court cannot refuse to entertain the compromise memo on the ground of pecuniary jurisdiction based on the subsequent events.

5.As far as this case is concerned the plaintiff and the defendants are in joint possession of the property and therefore the plaintiff has, as per the plaint, valued the suit at Rs.95,000/-. The total value of the property including the shares of the defendants comes to Rs.19,00,000/-.

6.Section 37(2) of the Tamil Nadu Court Fees and Suits Valuation Act 1955 reads as follows:

"In a suit for partition and separate possession of joint family property or property owned, jointly or in common, by a plaintiff who is in joint possession of such property, fee shall be paid at the following rates:-

When the plaint is presented to:--

(i)a District Munsif's Court : Rupees one hundred

(ii) the City Civil Court,  
Chennai at a Sub-Court  
or a District Court

:Rupees one hundred,  
if the plaintiff's  
share is rupees thirty  
thousand or less, rupees  
five hundred, if it is  
above rupees thirty  
thousand but below  
rupees one lakh and  
rupees seven hundred  
and fifty, if the  
value is rupees one  
lakh and above.

(iii) The High Court

:Rupees one thousand

7. In this case there is also a specific allegation in the plaint that the plaintiff is in joint possession with the defendants and accordingly the suit was valued.

8. The learned counsel appearing for the petitioner pressed into service a Full Court judgement reported in A.I.R.1937 Rangoon 320 (A.K.A. C.T.V.Chidambaram Chettiar vs. A.L.P.R.S. Muthia Chettiar) wherein it has been held as follows:

"In a suit for accounts the pecuniary jurisdiction of the court is governed by the value of the suit as stated by the plaintiff in his plaint and not by the amount which may be found and decreed by the court. Therefore a decree can be passed when an amount has been ascertained even though that is in excess of the pecuniary jurisdiction of the Court"

8. The learned counsel relied on a judgement in the case of C.Muthuvel Pillai vs. Hazarath Syed Shamian Sakkah Saheb Kadhiri Thaikkal represented by Trustee reported in Madras Law Journal, Reports (1974) 99 wherein this court held as follows:

"In a suit for recovery of possession of a site, the fixing of the price of the superstructure put up on the site by the lessee is only a consequential remedy to the relief prayed for in the suit. Simply because the price of the superstructure, which is not the subject matter of the suit as it is over and above, Rs.5,000/- the matter is not beyond the jurisdiction of the District Munsif's Court and the Munsif has jurisdiction to order delivery of possession"

9.The learned counsel for the petitioner also relied on a judgement in the case of Krishnaji Vinayak Belapurkar vs. Motilal Magandas Gujaratijudgement reported in A.I.R.1929 Bombay 337, the Bombay High Court wherein it has been held as follows:

"The jurisdiction of the Court depends on the valuation of the claim as made in the plaint and especially in a suit for accounts the jurisdiction to pass a decree for more than its pecuniary limit is not excluded when it is found on taking accounts that a sum of more than such pecuniary limit is due"

10.The citations referred to above squarely apply to the facts of this case and it is clear that, with regard to rendering of accounts, the jurisdiction of the court is not ousted by any subsequent development. At the time of filing of the suit, the suit was valued at Rs.95,000/- and in the passage of time, i.e., ten years later, normally the value of the property would be increased manifold by booming of real estate and by other developments. But It does not mean that the jurisdiction of the court which had the pecuniary jurisdiction at the time of filing of the suit has been ousted.

11.In the above circumstance, this civil revision petition is allowed and the Additional District Munsif, Namakkal is directed to entertain the compromise memo and dispose of the same in accordance with law. No costs. Consequently the connected M.P.No. 1 of 2006 is dismissed.

vk

Sd/  
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

The Additional District Munsif, Namakkal.

+ 1 cc to Mr. K. Yamunan, Advocate SR No. 50424

C.R.P.PD.No.1457 of 2006

MM(CO)  
SR/23.11.2006