

(1934) 10 MAD CK 0032
In the Madras High Court

Arathil Kandoth Madathil Janaki Amma	APPELLANT
Vs	
Kinakool Kuheema Umma and Others	RESPONDENT

Date of Decision : 26-10-1934

Acts Referred:

Tamil Nadu Civil Courts Act, 1873 — Section 12

Citation : (1935) 41 LW 626 : (1935) 68 MLJ 231

Hon'ble Judges : Stone, J

Bench : Division Bench

Judgement

Stone, J.—In this matter I am of the opinion that it is not possible to value the subject-matter of the suit as low as Rs. 3,000. The claim for

maintenance and arrears of maintenance account for Rs. 2,875-12-0 and there is in addition a claim to set aside an order dismissing a claim

petition. It is urged that the value of that remedy should be found by looking at Schedule II, Article 17(1) of the Court Fees Act, observing that a

fee of Rs. 15 is payable, then looking at the table of ad valorem fees, observing that that is the appropriate ad valorem fee for a claim of Rs. 190-

200, and thus valuing that remedy for the Court Fees Act. Then to get the value for jurisdiction it is said one has to go to Section 8 of the Suits

Valuation Act. The fallacy lies in this that Section 8 relates to suits where ad valorem court-fees are payable and in cases falling under Schedule II,

Article 17(1) the fee is a fixed and not an ad valorem fee. That mode of determining value failing, one is driven to Section 12 of the Madras Civil

Courts Act. The test is value. What is the value of the subject-matter of a suit to set aside an order rejecting a claim petition. Surely the value of the

subject-matter of the claim petition and I so hold. Thus to the Rs. 2,785-12-0 has to be added the value of the claim petition.

2. It is not however contented here that I have no power to transfer this suit to the Court of the Subordinate Judge of Tellichery. Further, Counsel for the Petitioner admits that the Plaintiff has presented her claim to date in good faith in the District Munsif's Court and that Section 14 of the Limitation Act operates to save her claim from being barred. I transfer the case accordingly. The petition succeeds with costs.