
(2007) 04 AP CK 0051
In the Andhra Pradesh High Court
Case No : C.R.P. No. 754 of 2007

Chirala Rate Payers and Civic Amenities Association	APPELLANT
Vs	
Chirala Municipality	RESPONDENT

Date of Decision : 13-04-2007

Acts Referred:

Andhra Pradesh Court Fees and Suits Valuation Act, 1956 — Section 24, 25, 47, 79(2)
Civil Procedure Code, 1908 (CPC) — Section 115

Citation : AIR 2007 AP 249 : (2007) 4 ALD 458 : (2007) 4 ALT 1 : (2007) 2 APLJ 155

Hon'ble Judges : A. Gopal Reddy, J

Bench : Single Bench

Advocate : N. Subba Rao, for the Appellant;

Final Decision : Dismissed

Judgement

A. Gopal Reddy, J.—The Chirala Rate Payers and Civic Amenities Association, Chirala represented by its Vice-President, Grandhi Chenchiah filed this revision petition u/s 115 CPC for revising the Judgment passed by the Senior Civil Judge, Chirala dated 9-10-2006 in CMA No. 6/2006, confirming the judgment passed by the Principal Junior Civil Judge, Chirala dated 10-4-2006 in O.S. No. 486/2002,.returning the plaint for presentation in a proper court as the court will not have pecuniary jurisdiction to try the suit.

2. The petitioner herein, namely, Chirala Rate Papers" and Civic Amenities Association, Chirala, (for short "the petitioner-Association") is the plaintiff in the suit. It filed the above suit O.S. No. 486/2002 before the Principal Junior Civil Judge, Chirala against the respondent herein, namely, Chirala Municipality, questioning the validity of house tax assessment and to declare demand notices issued in the month of March to the members of the Association are illegal and void and for a consequential injunction restraining the defendant-Municipality from collecting the enhanced house-tax from the members of the petitioner-Association.

3. The respondent-Municipality filed written statement while denying the allegation mentioned in the plaint stated that the revision was the outcome of the implementation of G.O.Ms. No. 154, Municipal Administration, dated 8-4-2002 and the Municipality has followed its own procedure despite the directions of the Government. The Government through its memo No. 244/8/TCI/2001 dated 10-1-2002 issued instructions to conduct revision of property tax assessments with effect from 1-4-2002. In due implementation of the instructions, the Municipality conducted revision of property tax assessments, strictly following the mandatory provisions of the Statute and in accordance with the existing G.Os. and circular orders of the Government issued in this regard and special demand notices were issued to the assesseees. Some of the members of the petitioner-Association refused to take demand notices. If any person aggrieved by the order of the said revision, can prefer appeal before the appellate authority by depositing the tax in respect of which the appeal is preferred within the stipulated time. But none of the members of the petitioner-Association preferred any appeal. The suit is not maintainable as the tax is assessed and collected individually depending upon the nature of building, plinth area, nature of use, and rental value etc. The total amount that was levied for all the members of the petitioner-Association is over Rs. 31,86,412/-per year and the annexed statement shows all the particulars such as assessment numbers, existing tax as on 31-3-2002, revised tax levied as per the Government orders. The jurisdiction of the civil court is expressly barred and the suit should be valued on the amount demanded or the advantage the members of the petitioner-Association would gain or injury or loss the Municipality would avoid. The petitioner-Association suppressing the said facts instituted the suit by paying nominal court fee and the court will not have jurisdiction to entertain the suit.

4. Learned Principal Junior Civil Judge by his order dated 10-4-2006 found favour with the contention of under-valuation of the suit at Rs. 10,000/- and payment of court-fee and if the suit is decreed the petitioner-Association will gain a sum of Rs. 31,86,412/-, therefore the petitioner-Association has to pay court fee thereon and the court will not have jurisdiction to try the suit as the value of the suit is beyond the pecuniary jurisdiction of the Junior Civil Judge and accordingly returned the plaint with a direction to present the same before the proper court.

5. On appeal being filed by the petitioner-Association, learned Senior Civil Judge held that on enactment of A.P. Court Fees and Suits Valuation Act, 1956 (for short "the Court Fees Act, 1956"), the application of Court Fees Act, 1870 to the State of Andhra Pradesh has been repealed and there is no specific provision with regard to the valuation of the suit filed in representative capacity, and by placing reliance on the judgment of this court in I.L.T.D. Co. Ltd. and Anr. v. Agricultural Market Committee Kandukur 1979 (1) ALT 352 wherein it was held that where the valuation of the relief is possible to be ascertained with regard to the loss avoided by obtaining declaration and injunction, the relief should be valued with such amount and holding so dismissed the appeal.

6. Sri N. Subba Rao, learned Counsel for the petitioner-Association contends that the suit itself is filed in a representative capacity challenging the revision of house-tax by the Municipality and consequential demand notices, and court fee has been paid on notional value u/s 24(d) of the Act, and the suit need not be valued as per the demand amount made by the Municipality, therefore, both the courts below are not justified in returning the plaint with a direction to pay a court fee and present the plaint before the jurisdictional court on such valuation. In support of his contentions, he placed reliance on the following judgment:

The Sattenapalli Panchayat Board Vs. Yekkala Lakshmi Kantam and Others,

7. Before adverting to the submissions, it is necessary to notice the reliefs claimed by the petitioner-Association in the suit:

(i) To declare that the demand notices issued in the month of March to the members of the association are illegal and void;

(ii) For consequential injunction restraining the defendant from collecting the enhanced house-tax from the members of the association; and

(iii) For costs of the suit.

In the plaint, the plaintiff also provided the list of members who received demand notices with all particulars of assessment of tax.

S. Name of the Assessment Previous Assessment Demand No. Assessee No.
assessment after Special amount Notice Rs. Rs. Rs. 1 Paleru Anjaneya 27202
2,117 11,413 Not yet Prasad received 2 Munnaluri Badri 18202/13 3,000 9,280
7,500 Narayana 3 Divvela Rama 25850/19 574 1,123 1,005 Satyanarayana 4
Grandhi Chenchiah 19619 924 2,865 Not yet received

8. On enactment of the A.P. Court Fees Act, 1956, the Court-fees Act, 1870 (Central Act VII 1870), in its application to the State of Andhra and in relation to the fees and stamps other than fees and stamps relating to documents presented or to be presented before an officer serving under the Central Government and the Suits Valuation Act, 1887 (Central Act VII of 1887), in its application to the State of Andhra have been repealed. Sub-section (2) of Section 79 of the Court Fees Act, 1956, provides that all suits and proceedings instituted before the commencement of the Court Fees Act, 1956 and all proceedings by way of appeal, revision or otherwise arising therefrom, whether instituted before or after such commencement shall, not with standing the repeal of the above Acts be governed by the provisions of the said Acts and the Rules made thereunder.

9. It is not disputed that there is no provision under the Court Fees Act, 1956 with regard to valuation of suit filed in the representative capacity. Section 24 of the Court Fees Act, 1956 deals with suits for declaration with or without consequential relief, not falling u/s 25. Sub-section (d) of Section 24 which governs the issue under consideration reads as under:

24. Suits for declaration:- In a suit for a declaration with or without consequential

relief, not falling u/s 25

(a) x x x x x;

(b) x x x x x;

(c) x x x x ;

(d) In other cases, whether the subject matter of the suit is capable of valuation or not, fee shall be computed on the amount at which the relief sought is valued in the plaint or at which such relief is valued by the Court, whichever is higher.

10. In Sattenapalli Panchayat (2 supra), this court after referring to the Division Bench judgment of this court in Jabbar v. State of Andhra Pradesh 1969(1) W.R. 411 (D.B.) and distinguishing Section 24(d) of the Court Fees Act, 1956, held as under:

The present suit out of which this second appeal arises is not a suit to avoid any particular demand made against the plaintiffs. It is a suit for a declaration that the general revision of house taxes made by the Gram Panchayat is illegal and void for failure to comply with the statutory requirements. It is not intended to restrain the defendant from demanding and collecting a particular sum, but it is for a general declaration. Therefore there is no particular advantage the plaintiffs would gain or particular injury or loss they would be avoiding under the decree itself. Even after the plaintiffs succeed the defendant may still, revise the taxes in accordance with law and thereafter make a demand. At the stage at which the suit was filed there was no demand made against any of the plaintiffs. The principle of the above decision therefore does not apply to this case.

The facts in the above case are misplaced to the facts in the present case.

11. In Jabbar (3 supra), the facts are, the plaintiff filed a suit for a declaration that the demand of Rs. 60,500/- as abkari arrears by the Government was illegal and also for an injunction restraining the Government from taking proceedings to recover the said arrears, valuing the relief at Rs. 5000/- and paid the court-fee u/s 24(d) of the Court Fees Act, 1956. When the appeal was taken up for hearing, an objection was raised that the relief is not properly valued u/s 24(d) and the relief ought to have been valued for Rs. 60,500/- and court fee should be paid on it. Learned single Judge referred the matter as to the applicability of Section 24(d) of the Act where a notional valuation is given by the plaintiff, to a Division Bench. On reference being made, the Division Bench of this court after scanning various decisions, and after approving the ratio laid down in Ramachandraiah v. Lakshmiddevamma 1965 (1) An. W.R. 138 held that the provisions of Section 24(d) of the Act are very clear and empower the court to value the relief claimed by the plaintiff and the relief sought by the plaintiff has to be valued on the basis of the advantage he would gain or the injury or loss he would avoid.

12. In I.L.T.D. Co. Ltd., (1 supra), this court held that it is quite manifest from Section 24(d) of the Act that where the court has been invested with a power to

value the suit with reference to the relief that is sought for and if the plaintiff has under-valued the relief, then the court certainly at liberty to fix the value of the relief at a rate higher than that if it can do so.

13. Further, a Division Bench of this Court in State of A.P. and Others Vs. V. Narender Reddy and Others, after considering Sections 24(d) and 47 of the Court Fees Act, 1956 and considering the reliefs claimed in a suit where distraint notices with specific demands have been challenged, and after following the ratio laid down in Jabbar(3 supra) wherein it was held that the suit had to be valued at the amount for which a disadvantage had to be suffered by the plaintiffs held that the relief No. 2, namely, mandatory injunction directing the defendants to make good the amounts kept in deposit by the defendants, was as a matter of fact a relief for recovery of the deposits made by the plaintiff, whereas relief No. 1 to the effect that defendants should not recover an amount of Rs. 1,88,06,826/- to the plaintiffs, was in effect a relief which could have granted the advantage of Rs. 1,88,06,826/- to the plaintiffs if the suit was decreed, and accordingly allowed Letters Patent Appeal setting aside the decree passed by the trial court as upheld by the learned Single Judge decreeing the suit of the plaintiffs.

14. Having regard to the authoritative pronouncements as aforementioned, and having regard to the fact that the members of the petitioner-Association have been served with the demand notices to a tune of Rs. 31,86,412/- which is the amount the plaintiff would avoid the liability, it is held that the relief sought by the plaintiff-Association has to be valued on the basis of the advantage they would gain or the injury or loss the respondent-Municipality would be restrained, if the suit is decreed. Admittedly, if the suit is decreed, the plaintiff-Association would gain Rs. 31,86,412/- and the Municipality will suffer an injury or loss to the extent of Rs. 31,86,412/-. Therefore, I am of the opinion that no illegality is discernible in the order passed by the trial court as affirmed by the lower appellate court warranting interference by this court.

15. The Civil Revision Petition fails and it is accordingly dismissed. No costs.