

**(2013) 02 MAD CK 0110**

**In the Madras High Court**

**Case No :** C.R.P.PD. (MD) No. 239 of 2013 and M.P. (MD) No. 1 of 2013

G. Lokanayaki

APPELLANT

Vs

Venkatraj and Others

RESPONDENT

---

**Date of Decision :** 05-02-2013

**Acts Referred:**

Tamil Nadu Court Fees and Suits Valuation Act, 1955 — Section 37(1)

**Citation :** (2013) 2 CTC 288 : (2013) 1 LW 975

**Hon'ble Judges :** D. Hariparanthaman, J

**Bench :** Single Bench

**Advocate :** S. Kadarkarai, for the Appellant;

**Final Decision :** Dismissed

---

## **Judgement**

D. Hariparanthaman, J.—The petitioner is the plaintiff. He filed a Partition Suit in O.S.No. 12 of 2011 before the Sub Court, Sivakasi. The

petitioner valued the share of the suit property at Rs. 1,76,947/-, while the total value of the entire property is Rs. 10,61.680/-

2. While so, the Principal District Court, Virudhunagar at Srivilliputtur issued notice dated 03.05.2012, transferring the aforesaid suit to the District

Court and posting the matter on 11.06.2012. The suit was renumbered as O.S.No. 32 of 2012.

3. Thereafter, the petitioner herein filed application in I.A.No. 597 of 2012, to transfer the suit to the Sub Court, Sivakasi.

4. No counter was filed by the defendants in the suit. However, the District Judge, passed an order dated 28.09.2012 in I.A.No. 597 of 2012 in

O.S.No. 32 of 2012, rejecting the application. It is stated that the value of the property exceeds Rs. 10,00.000/- and therefore, the District Court

alone has jurisdiction to try the suit.

---

5. Heard the learned counsel for the petitioner.

6. As rightly contended by the learned counsel for the petitioner, the Sub Court has jurisdiction as per Section 12 of Tamil Nadu Civil Court Laws,

to try a suit to the value of Rs. 10,00,000/-. The mistake committed by the District Court is that the District Court has taken the entire property

value to decide the pecuniary jurisdiction. It is not correct. The plaintiff has claimed only Rs. 1,76,947/- as her share in the joint family property.

Hence, the suit value is Rs. 1,76,947/- as per Section 37(1) of the Tamil Nadu Court Fees and Suit Valuation Act. Section 37(1) of the Tamil

Nadu Court Fees and Suit Valuation Act is extracted in this regard.

37. Partition suits.- (1) In a suit for partition and separate possession of a share joint family property or of property owned, jointly or in common,

by a plaintiff who has been excluded from possession of such property, fee shall be computed on the market value of the plaintiff's share.

In view of the same, I am of the view that the order of the learned District Judge, Virudhunagar at Srivilliputhur is liable to set aside.

Accordingly, this Civil Revision Petition is allowed and the order dated 28.09.2012 in I.A.No. 597 of 2012 in O.S.No. 32 of 2012 passed by the

learned Principal District Judge, Virudhunagar at Srivilliputtur is set aside. A direction is issued to the learned Principal District Judge, Virudhunagar

at Srivilliputhur, to transfer the suit immediately to the Sub Court, Sivakasi, for further proceedings. No costs. Consequently, connected

miscellaneous petition is closed.