

(1948) 01 MAD CK 0025
In the Madras High Court

Gadiraju Srirama Sarma and Others

APPELLANT

Vs

Gadiraju Venkatappa and Others

RESPONDENT

Date of Decision : 09-01-1948

Acts Referred:

Court Fees Act, 1870 — Section 7(v)

Citation : AIR 1948 Mad 334 : (1948) 1 MLJ 334

Hon'ble Judges : Clark, J

Bench : Division Bench

Judgement

Clark, J.—The petitioners were the plaintiffs in the Court of the District Munsif of Tenali. They sued for partition of certain property and for possession from the alienees. The respondents objected that the value of the suit was beyond the pecuniary jurisdiction of the Court. The District Munsiff upheld this objection and returned the plaint to the petitioners for presentation to the proper Court. They appealed to the Subordinate Judge of Tenali who upheld the decision of the District Munsiff. The petitioners now ask that these orders may be set aside.

2. Before the Subordinate Judge it was conceded that the claim falls within Section 7 (v) of the Court-Fees Act, and before me it has been conceded that so far as concerns the claim to partition and possession it is one falling within Clause (b) of that provision. I desire to make it clear that this was conceded only with reference to the claim for partition and possession and not as regards the suit generally, because counsel for the respondents urged that there were other claims in the suit, which, if considered, would give the suit a value for jurisdiction in excess of the District Munsiff's jurisdiction if the petitioner's contention as regards the valuation of the relief for partition and possession is accepted. I am not prepared to discuss this aspect of the case. Admittedly no objection on this point was raised before either of the Courts below, and accordingly neither Court has considered or come to any conclusion on this point. I propose to confine my order to a con-sideration of the decision of the Courts below as to the value for jurisdiction of the claim to partition and possession.

3. It seems to me that once it is conceded, as in the case here, that the claims are claims falling within Section 7 (v)(b) of the Court-Fees Act, the matter is concluded by Section 14 of the Madras Civil Courts Act which provides that,

When the subject-matter of any suit or proceeding is land, a house or a garden, its value shall, for the purposes of the jurisdiction conferred by this Act, be fixed in the manner provided by the Court-Fees Act, 1870, Section 7, Clause (v).

Admittedly the subject-matter of the suit is within this provision, and accordingly the value for jurisdiction will be that fixed u/s 7 (v)(b) of the Court-Fees Act. That provision provides for assessment of value at ten times the annual revenue payable to Government. On that valuation this suit is within the jurisdiction of the District Munsiff. Neither of the cases relied on by the Subordinate Judge, *Vasireddi Veeramma v. Butchiah* (1926) 52 M.L.J. 381 : ILR 50 Mad and *Ponnada Mallayya and Another Vs. Ponnada Jagannadhamma and Others*, are in point. *Vasireddi Veeramma v. Butchiah* (1926) 52 M.L.J. 381 : ILR 50 Mad. concerned a declaratory suit, and *Ponnada Mallayya and Another Vs. Ponnada Jagannadhamma and Others*, , was a claim for partition of property in joint possession. Both these cases are cases falling within Schedule II of the Court-Fees Act, i.e., cases of fixed court-fees depending on the nature of the claim. They are of no assistance in considering a case like the present where u/s 14 of the Madras Civil Courts Act, the value is to be ascertained in accordance with Section 7 (v) of the Court-Fees Act. Accordingly the revision petition is allowed with costs.