
(1985) 08 MAD CK 0001

In the Madras High Court

Case No : C.R.P. No. 1674 and 1675 of 1985

Louis Xavier and another

APPELLANT

Vs

Roubalavathayammal Carnot alias Chandrammal

RESPONDENT

Date of Decision : 02-08-1985

Acts Referred:

Citation : (1985) 08 MAD CK 0001

Hon'ble Judges : S.A. Kader, J

Bench : Single Bench

Advocate : G. Masilamani, for the Appellant; R.S. Venkatachari, for the Respondent

Judgement

S.A. Kader, J.—These two revisions arise out of the common order of the Court of the I Additional Judge, Pondicherry, in I.A. No. 1945

of 1981 in A.S. 149 of 1980 and I.A. 1944 of 1981 in A.S. 170 of 1980. The petitioner in the court below who is the respondent in the appeals

and the defendant in the suit is the revision petitioner. The respondent herein filed O.S. 105, 110, 131 and 132 of 1975 on the file of the

Subordinate Judge Pondicherry, for declaration of title and for injunction in respect of the suit properties. Court-fee has been paid under S. 25(b)

of the Pondicherry Court Fees and Suits Valuation Act of 1972, but, the court-fee has not been paid on the market value of the property but on a

notional value. The defendant challenged the correctness of the court-fee paid and an issue in respect thereof was framed only in O.S. 105 of

1975. In the other suits there was no issue regarding court-fees. At the trial the issue regarding the court-fees in O.S. 105 of 1975 was answered

against the defendant. All the suits were dismissed on merit and the plaintiff preferred appeals in A.S. Nos. 170, 169, 149 and 171 of 1980

respectively. In the appeals the respondent-defendant filed I.A. 1945, 1943, 1942 and 1944 of 1981 respectively in these appeals for the

determination of the correct court-fee payable and for directing the appellant to pay the court fee. The applications were dismissed by the learned

District Judge. Aggrieved thereby the respondent has preferred revisions in two cases, viz., against the order in I.A. 1945 of 1981 in A.S. 149 of

1980 and against the order in I.A. 1944 of 1981 in A.S. 170 of 1980.

2. The first question which arises for consideration is about the maintainability of these revisions. It is contended by the learned counsel for the

respondent herein that the question of court-fee is essentially a matter between the plaintiff and the Government and the defendant is not entitled to

seek to revise the order in favour of the plaintiff passed by the court below. Reliance is sought to be placed on a Full Bench decision of this Court

in *Chintalapati Moorthiraju v. Chintalapati Subbaraju* ILR 1944 Mad 626 = 57 L.W. 247 (F.B.). The Full Bench held that a revision lies to the

High Court when a court subordinate to it has held that a plaintiff has inadequately stamped his plaint, but a petition for revision does not lie when a

defendant has unsuccessfully challenged the adequacy of the stamps affixed by the plaintiff unless the further question of jurisdiction is involved. The

Supreme Court in *Sri Ratnavaramaraja Vs. Smt. Vimla*, has held that the Court Fees Act is enacted to collect revenue and not to be used as a

technical weapon by the defendant for obstructing the progress of the suit by approaching the High Court in its revisional jurisdiction against

determining and adjudging court-fees payable on the plaint. The Supreme Court further observed that the High Court grievously erred in

entertaining the revision application on the question of court-fee at the instance of the defendant when no question of jurisdiction was involved. The

matter came up again before the Supreme Court in *Shamsher Singh v. Rajindra Prasad* 1974 1 S.C.J. 270. The learned Judges rejected the

argument that whether proper court fee is paid on a plaint is primarily a question between the plaintiff and the State and that the defendant has no

right to move the superior court by appeal. Referring to the earlier decision of the Supreme Court in *Sri Ratnavaramaraja Vs. Smt. Vimla*, , the

Supreme Court held that it was a case of revision and not appeal and the revisional jurisdiction of the High Court cannot be exercised unless there

was exercise by the court below of jurisdiction not vested in it or refusal to exercise the jurisdiction vested in it or exercising its jurisdiction illegally or with material irregularity and the said decision was tacitly approved. It follows from the aforesaid decisions that where the court below has decided the question of court-fee in favour of the plaintiff, the defendant is not entitled to challenge the same in revision unless any question of jurisdiction is involved. No question of jurisdiction is involved in this case as the Subordinate Judge before whom the suit was instituted had unlimited jurisdiction. It is not also the case of the revision petitioner-defendant that he was in any way prejudiced by the under valuation. I therefore hold that the revisions are not maintainable. In the result, the revision petitions fail and are dismissed. No costs.