
(1952) 12 MAD CK 0008

In the Madras High Court

Case No : Civil Revision Petition No. 513 of 1951

Mundlamudi Penchalamma

APPELLANT

Vs

Kopparthi Subbaramiah and Others

RESPONDENT

Date of Decision : 05-12-1952

Acts Referred:

Provincial Small Cause Courts Act, 1887 — Article 15

Citation : AIR 1953 Mad 559 : (1953) 66 LW 530 : (1953) 1 MLJ 321

Hon'ble Judges : Mack, J

Bench : Single Bench

Advocate : R. Venkatasubba Rao, for the Appellant; K. Subbaramiah, V. Sreeramulu and K. Subramanian, for the Respondent

Final Decision : Allowed

Judgement

Mack, J.—The petitioner is defendant I who bought some lands from the plaintiff in 1947 for a sum of Rs. 2,000. The plaintiff's case was

that Rs. 100 still remained unpaid by defendant 1 and he sued to recover the balance alleged to be due. This was not a straight forward claim for

the money due. There was an agreement that defendant 1 should discharge all the plaintiff's debts which, included a decree in a Munsif's Court

suit. Though defendant 1 paid up the debts of the plaintiff this decree was not satisfied but was transferred in the name of defendant 2. The learned

Small Cause Judge rejected the plea taken that he had no jurisdiction to try this suit, went into the merits and gave the plaintiff a decree against

defendant 1 only. The decision in - "Veerasalingam v. Sathapally Sathirasu", 19 Mad LJ 220 (A) was placed before him but he did not think that

in point. That was a suit for recovery of a sum of money due to the plaintiff under a contract for the transfer of some pattahs for Rs. 60. The

plaintiff sued to recover Rs. 60. It was held that the suit was for specific performance of contract between the plaintiff and the defendant and, therefore, the Small Cause Court had no jurisdiction to entertain it. The present suit is not on all fours in the sense that it is not so clearly a suit for specific performance of a contract.

2. The learned advocate for the petitioner, respondents being unrepresented and making no appearance, invoked the support of the decision in -

N.M.S.S. Subramanian Chettiar Vs. S.M.A.M. Arunachalam Chettiar and Others, , a Full Bench decision of our High Court which held that a suit

by the vendor for the recovery of the purchase consideration is a suit for specific performance within the meaning of Chap. 2, Specific Relief Act.

Though that was not a suit which decided any question of jurisdiction of the Small Cause Court to entertain such a suit, it is clearly authority for the

position that generally speaking a suit by a vendor to recover the purchase money or any balance alleged to be due on a sale of Immovable

property falls within the category of a suit for specific performance. The nature of the present suit is also such that it is not even one to recover a

specific unpaid amount but raises generally the question of how a specific contract of sale has been performed. I am clearly of opinion that this suit

is one which is not of a small cause nature and that the decree passed was accordingly without jurisdiction. It is set aside. The plaint will be

returned for presentation to the proper Court for disposal. Costs of this petition will abide the result and be provided for by the trial Court.