

(1918) 04 MAD CK 0044
In the Madras High Court

Pilla Kakkadu alias Balaji and Pilla Ramayya and Others

APPELLANT

Vs

Vedula Chendrayya Chandari and Others

RESPONDENT

Date of Decision : 18-04-1918

Acts Referred:

Citation : 51 Ind. Cas. 536

Hon'ble Judges : Bakewell, J;Abdur Rahim, J

Bench : Division Bench

Judgement

1. The plaintiffs brought these suits for a declaration that the decrees in two other suits were not binding on them and for a permanent injunction

restraining the decree holders from executing those decrees. The decrees were passed by a Subordinate Judge and the present suits were filed in

the District Munsif's Court. The plaintiffs valued the relief claimed by them u/s 7, Sub-section 4, Clause (c), of the Court Fees Act and filed the

suits, as stated, in the District Munsif's Court according to that valuation. It may be mentioned that they had originally filed the same suits in the

Subordinate Judge's Court but on insufficiently stamped plaints, and afterwards withdrew the plaints. That does not, however, make any difference

in the question we have to consider.

2. It has been decided by a Bench of this Court, after a very elaborate discussion of the law, in Arunachellam Chetty v. Sabapathy Chetty 41 Ind.

Cas. 937 that a suit to obtain a declaration that a decree passed by a Court was obtained by fraud and was not binding on the plaintiff can be laid

in a Court of inferior jurisdiction to the Court which passed the decree, provided the subject-matter is otherwise within the jurisdiction of the Court

where the suit is instituted. The decision seems to be supported by authorities

and nothing has been urged against the soundness of that view.

3. The real question argued is that the valuation for purposes of jurisdiction ought to be according to the amount of the decree and not at the option

of the plaintiffs. This point, however, is covered by a recent Full Bench ruling of this Court in *Arunachalam Chetty v. Rangasamy Pillai* (1915)

M.W.N. 118 ; 28 M.L.J 118 where it is held that a suit for a declaration that a decree is not binding as having been obtained by fraud comes

within Section 7, Sub-section 4, Clause (c), of the Court Fees Act and that the Court-fee payable thereon will be on the value at which the suit is

valued in the plaint. That is a decision binding on us and it cannot make any difference in this respect that other High Courts, if the contention of the

respondent is correct, have taken a different view.

4. Then, if Section 7, Sub-section 4, Clause (c), applies, as we hold that it does, following *Arunachalam Chetty v. Rangasamy Pillai* (1915)

M.W.N. 118 ; 28 M.L.J 118 to a suit of this nature, another Full Bench decision of this Court in *Ramiah v. Ramasawmi* 18 Ind. Cas. 363 has laid

down that Courts cannot reject for purposes of jurisdiction the valuation made by a party for purposes of Court-fee of the relief sought by him in a

suit for partition of properties of which he claims to be in joint possession along with his co-parceners, even if such valuation is proved to be not a

bona fide but an arbitrary valuation. That was in a suit for partition, but the same principle applies to a suit like this, that is to say, where a party is

allowed u/s 7, Sub-section 4, to value a suit as he chooses, that valuation is also good for the purpose of determining the jurisdiction of the Court

in which the suit is to be filed.

5. The result will be that this appeal must be allowed and the decrees of the lower Courts set aside so far as defendants other than the 1st

defendant are concerned and the case will have to be disposed of on the remaining issues. We may mention that the 1st defendant died while the

appeal was pending in the lower Appellate Court and his legal representatives were not made parties to the second appeal and the time has long

since passed. We do not think that this was a case in which the delay which was clearly due to the negligence of the appellants should be excused.

Costs will follow the result.