
(1951) 08 MAD CK 0039

In the Madras High Court

Case No : Civil Revision Petition No. 383 of 1951

R.S. Venkataswami Naicker

APPELLANT

Vs

Chinnayapuram Co-operative Stores and Another

RESPONDENT

Date of Decision : 21-08-1951

Acts Referred:

Citation : AIR 1954 Mad 188 : (1952) 65 LW 153 : (1952) 1 MLJ 8

Hon'ble Judges : Basheer Ahmed Sayeed, J

Bench : Single Bench

Advocate : T.R. Srinivasan and S. Gopalaratnam, for the Appellant; V.V. Raghavan, for Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

Basheere Ahmed Sayeed, J.—The plaintiff is the petitioner in this civil revision petition. He has preferred this petition against the order of the learned District Munsif of Sattur directing him to pay court-fees u/s 7(IV-A) and (IV) (c) of the Court-fees Act. The petitioner's contention is that he is suing only for a declaration, that the award passed by the Deputy Registrar of Co-operative Societies is not valid and binding against him and for injunction which he presses for against the attachment of his property which he is entitled to value according to his own calculations. The learned District Munsif treats the award of the Deputy Registrar on the same footing as a decree of a civil court. He has taken into account the mere fact that the award of the Deputy Registrar is capable of execution as if it was a decree of a civil court or a Revenue Court. He has failed to note that this by itself will not convert the award of the Deputy Registrar into a decree. Even so, tribunals such as Commercial Tax Officers and so forth stand on quite a different footing from civil courts. They are not defined as courts, though for purposes of administrative convenience, their decrees are allowed to be executed by civil courts as if they are decrees of a civil court or a revenue court. Such being the case, the ruling in - Kuppu Govinda Chettiar Vs. Uttukottai Co-operative Society, would apply to this case. Agreeing with that decision, I

think the learned District Munsif is not correct in equating the award by the Deputy Registrar to a decree of a civil court or a revenue court. Therefore, so far as the declaration for setting aside that award is concerned, the finding of the learned District Munsif that the court-fees should be paid u/s 7(IV)(A) of the Court-fees Act cannot be correct and it cannot be upheld. The learned counsel for the petitioner has invited my attention to a further decision in - "Kalla Surayya and Sons v. Province of Madras", AIR 1949 Mad 778 (B) which has approved of the decision in - Kuppu Govinda Chettiar Vs. Uttukottai Co-operative Society, " and the decision in that case would apply to the facts of the present case and in view of that decision also the finding of the learned District Munsif that court-fee should be paid u/s 7(IV-A) is not tenable.

2. On the question as to proper court-fee to be paid on the prayer for injunction restraining the Deputy Registrar from attaching the property of the petitioner the prayer can be viewed either as in consequence of the prayer for declaration or it may be treated as an independent relief arising from a different set of facts. In fact in this case while the order has been passed on 14-12-1949 the attachment has taken place on 27-9-1950. If the relief for injunction is not really consequent upon the relief for a declaration to set aside the award then Section 7(IV)(d) of the Court-fees Act would come into operation, in which case the petitioner will be entitled to fix his own valuation for the injunction he has applied for. Even in that case, the principles that would be applicable in such cases have been discussed in the decision reported in - "AIR 1949 Mad 778 (B)". Considered from this point of view also, the finding of the learned District Munsif that the court-fee should have been "paid u/s 7(IV)(c) cannot be sustainable. I think therefore that the court-fee that has been paid on the plaint in the lower court is the proper court-fee and this petition is therefore allowed with costs. Costs will be paid by the parties other than Government.