

(1997) 10 MAD CK 0021
In the Madras High Court

S. Sekar

APPELLANT

Vs

Mariammal

RESPONDENT

Date of Decision : 28-10-1997

Acts Referred:

Citation : (1998) 1 MLJ 764

Hon'ble Judges : V. Rengasamy, J

Bench : Division Bench

Judgement

V. Rengasamy, J.—This revision is against the order of the VII Additional Judge, City Civil Court, Madras with regard to the court-fee paid

by the revision petitioner herein. Before the passing of the G.O. No. 1742, Home, dated 23.11.1995, the jurisdiction for the value of the suit

exceeding rupees one lakh in the Metropolitan area was only in the High Court and by virtue of the abovesaid G.O. the pecuniary jurisdiction of

the Subordinate Court is raised to Rs. ten Lakhs. The revision petitioner herein before the passing of the abovesaid G.O. presented a suit in the

High Court paying the court-fee that was payable for the suit filed in the High Court: but as the pecuniary jurisdiction of the Subordinate Court was

raised, the plaint presented in this Court has been returned for presentation in the proper court. Before the Subordinate Court the valuation of the

property will be on ad valorem basis and the deficit court-fee was asked to be paid by the plaintiff. However, the revision petitioner/plaintiff

contended that as he presented the suit in the High Court, the ad valorem court-fee cannot be calculated and no further court-fee is payable by the

plaintiff. As the VII Additional Judge did not accept this contention the plaintiff has filed this revision.

2. It is argued for the petitioner by Miss. Kalarani that before passing of the G.O. No. 1742, Home, dated 23.11.1995 the suit was maintainable

only in the High Court and therefore, the court-fee that is payable in the High Court has been properly paid in the plaint. That though the

jurisdiction of the Subordinate Court is raised to Rs. ten lakhs, the petitioner is not liable to pay the ad valorem court-fee as worked out by the VII

Additional judge, City Civil Court, Madras, because when once the plaint was presented in the High Court, with the proper court-fee payable to

the High Court, now they cannot claim the additional court-fee. This contention is not acceptable because if the plaint had been taken on file in the

High Court accepting the court-fee paid already, the matter would have been different, but the suit was not taken on file in the High Court and even

in the stage of presentation it was returned as the Subordinate Court had the jurisdiction to try the suit. Therefore, the ad valorem court fee payable

for the suit claim alone is payable by the revision petitioner. The order of the court below is right in directing the plaintiff to pay the deficit court-fee.

There is no error in the order. The revision is therefore dismissed in the admission stage.