

(2002) 04 MAD CK 0075

In the Madras High Court

Case No : Civil Revision Petition (N.P.D) No. 546 of 2002 and C.M.P. No. 5766 of 2002

Selvom Antoinine Marie, Selvom Cecili and Selvom Marius
rep. by their Power Agent M. Sakthivel, Karaikal

APPELLANT

Vs

Sowaridoss @ Julien Francuva, Rasappa Selvom, Ms. Marie
Josephine @ Devamadumary Selvom, Alphonsa Josephine,
Philomino Sironmani, Doss Robert, Doss Charles and Xavier
Fernandez Yoni

RESPONDENT

Date of Decision : 24-04-2002

Acts Referred:

Pondicherry Court Fees and Suits Valuation Act, 1972 — Section 25, 40

Citation : (2002) 3 LW 467

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : G.Rajan, for the Appellant;

Final Decision : Dismissed

Judgement

P.D. Dinakaran, J.—The revision petitioners are the plaintiffs in O.S.No.39 of 2000 on the file of the District Munsif, Karaikal, laid for

declaring that the compromise decree dated 29.10.1998, made in I.A.No.488 of 1998 in O.S.No.666 of 1996 on the file of the Principal District

Munsif, Karaikal is null and void and not binding on the plaintiffs herein and for permanent injunction restraining the defendants from alienating the

properties described thereunder in pursuance of the compromise decree till a regular partition takes place amongst all parties in respect of all joint

properties.

1.2 The respondents/defendants resisted the suit on several grounds, including questioning the valuation of the suit and consequently, the

jurisdiction of the Court, contending that the relief sought for itself is misconceived.

1.3 Hence, the learned Principal District Munsif, Karaikal, among other several issues, framed an issue relating to the valuation of the suit as well as

the court fee paid by the plaintiffs, as issue No.1, i.e., ""whether the suit has been properly valued and correct court fees has been paid by the

plaintiffs?"" and decided the same as the preliminary issue in I.A.No.488 of 1998 in O.S.No.666 of 1996.

1.4 The learned Principal District Munsif, Karaikal, after careful consideration of the records relating to O.S.No.666 of 1999 as well as Exs.A1 to

A3 marked therein, finding that the suit property is valued for Rs.75,000/- as on 28.11.1996 and returned the plaint to present the same before the

proper Court, held that even though the relief sought for u/s 25(d) of the Pondicherry Courts Fees and Suits Valuation Act, and the court fee was

paid u/s 25(d) r/w 27(c) of the said Act, the effect of the relief sought for is only cancellation of the compromise decree and order dated

29.10.1998, made in I.A.No.488 of 1998 in O.S.No.666 of 1996 on the file of the Principal District Munsif, Karaikal, which attracts Section 40

of the Pondicherry Court Fees and Suits Valuation Act, which reads as follows:

Section 40:- Suits for cancellation of decrees, etc.:-(1) In a suit for cancellation of a decree for money or other property having a money value, or

other document which purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest in

money, movable or immovable property, fee shall be computed on the value of the subject-matter of the suit, and such value shall be deemed to

be;

if the whole decree or other document is sought to be cancelled, the amount or value of the property for which the decree was passed or other

document was executed;

if a part of the decree or other document is sought to be cancelled, such part of the amount or value of the property.

(2) If the decree or other document is such that the liability under it cannot be split up and the relief claimed relates only to a particular item of

property belonging to the plaintiff or to the plaintiff's share in any such property, fee shall be computed on the value of such property of share or on

the amount of the decree whichever is less.

1.5 Aggrieved by the said order, the revision petitioners/plaintiffs preferred an appeal in C.M.A.No.62 of 1997 before the learned Additional

District Judge, Karaikal, who confirmed the same, by a judgment and decree dated 21.11.2001. Hence, the above revision.

2. Mr. G. Rajan, learned counsel appearing for the revision petitioners/plaintiffs, contends that Section 40 of the Pondicherry Court Fees and Suit

Valuation Act, is not at all attracted, as the same deals with only immovable properties.

3. I am unable to appreciate the contention of Mr. G. Rajan, learned counsel appearing for the revision petitioners, in this regard, as a reading of

Section 40 makes it clear that wherever the relief sought for, namely, for cancellation of a decree, whether it is for money or for other property

having a money value, the court fee is payable only u/s 40 of the said Act. The words, ""other property having a money value"" certainly includes the

immovable property, which has got a money value.

4. That apart, the words used, ""any right, title or interest in money, movable, immovable property"", in the latter lines of Section 40(1) abundantly

makes it clear that

P.D. Dinakaran, J. ATR Section 40 is applicable even in a case where the decree is related to immovable property, unlike in a case of declaration

and injunction relating to status of a person, which cannot be valued in terms of the money.

5. Hence, finding no reason to interfere with the orders of the Courts below, the revision petition fails and the same is dismissed. No costs.

Consequently, C.M.P.No.5766 of 2002 is also dismissed.