

(2011) 08 MAD CK 0041

In the Madras High Court

Case No : C.R.P. (PD) (MD) No. 1557 of 2011

V. Rasiyappan, Thenmozhi, Gandhamani and Senthilkumar

APPELLANT

Vs

Ramalakshmi

RESPONDENT

Date of Decision : 19-08-2011

Acts Referred:

Citation : (2011) 08 MAD CK 0041

Hon'ble Judges : C.S. Karnan, J

Bench : Single Bench

Advocate : G. Gomathisankar, for the Appellant;

Final Decision : Dismissed

Judgement

C.S. Karnan, J.—The revision Petitioners/defendants have filed the above revision to set aside the order dated 12.04.2011, passed in

unnumbered Tr.O.P. No... of 2010 on the file of the Principal District Judge, Dindigul, Dindigul District in O.S. No. 321 of 2009 on the file of the

District Munsif, Vendasandur, Dindigul District.

2. The short facts of the case are as follows:

(i) The Respondent/plaintiff has filed a suit in O.S. No. 321 of 2009 for partition alleging that she has got 1/4th share since she is the daughter of

the first revision Petitioner herein, through his first wife (late)Muthulakshmi and that she is the only daughter. The said partition suit has been filed on

the file of the District Munsif Court, Vendasandur, Dindigul District.

(ii) The revision Petitioners/defendants have filed written statement and resisted the said partition suit. One of the points raised in the written

statement was that the property was worth a sum of Rs. 10,20,150/-. As such, the learned District Munsif Court, Vendasandur has no jurisdiction

to try the case.

(iii) Hence, the revision Petitioners have filed Tr.O.P. of 2010, before the Principal District Court, Dindigul for transferring the partition suit in O.S.

No. 321 of 2009 filed by the Respondent and pending on the file of the District Munsif Court, Veda sandur to the higher forum of this District

Court, on the basis of pecuniary jurisdiction regarding the suit property value.

(iv) The learned District Judge, after hearing the arguments of the Learned Counsel for the Petitioners/ Defendants and after perusing the written

arguments of the Learned Counsel, dismissed the unnumbered Transfer Original Petition citing the reason that it is sub-judice since the learned

District Munsif has not decided the pecuniary jurisdiction. Aggrieved by the said dismissal order, the revision Petitioners have filed the above

revision petition.

3. The Learned Counsel for the revision Petitioners argued that the learned District Judge has sum moto power to take the transfer petition and

transfer the partition suit into his file from the file of the District Munsif Court, Veda sandur. The Learned Counsel further pointed out that the

revision Petitioners have filed detailed written statement and also mentioned the property value as Rs. 10,20,150/-. The said value has been

assessed as per market value. Therefore, the learned District Munsif Court has no pecuniary jurisdiction as well as original jurisdiction to try the

case. Hence, the Learned Counsel has prayed this Court to set aside the impugned order.

4. In view of the facts and circumstances of the case and arguments advanced by the Learned Counsel for the Petitioners and on perusing the

order of the learned District Judge, Dindigul, this Court is of the considered opinion that the learned District Judge has assigned the reason that the

pecuniary jurisdiction has to be decided only after adjudication. Without determining the market value of the property on the basis of valid titled

deeds, sumo moto transfer cannot be done. this Court does not find any infirmity in the order passed by the learned District Judge in the

unnumbered Transfer Original Petition, dated 12.04.2011. However, on the request of the Learned Counsel for Petitioners for speedy disposal,

this Court is inclined to grant the same which is a constitutional right. Therefore, this Court directs the learned District Munsif, Veda sandur to

dispose of the case in O.S. No. 321 of 2009 within a period of six months from the date of receipt of this order, without being influenced by the discussions made by this Court.

5. In the result, the above civil revision petition is disposed of with the above observations. Consequently, the order dated 12.04.2011 passed in unnumbered Transfer Original Petition No... of 2010 on the file of Principal District Judge, Dindigul is confirmed. Accordingly ordered. There is no order as to costs.