

(2007) 08 AP CK 0050

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 2258 of 2007

Y. Venkata Sesha Reddy

APPELLANT

Vs

Chembeti Kousalyamma Reddy and K. Bala Chennareddy

RESPONDENT

Date of Decision : 20-08-2007

Acts Referred:

Andhra Pradesh Civil Courts Act, 1972 — Section 16
Andhra Pradesh Court Fees and Suits Valuation Act, 1956 — Section 24
Civil Procedure Code, 1908 (CPC) — Order 7 Rule 10
Constitution of India, 1950 — Article 227

Citation : (2007) 6 ALD 561

Hon'ble Judges : D.S.R. Varma, J;B. Prakash Rao, J

Bench : Division Bench

Advocate : Kiran Kumar Vadlamudi, for the Appellant; Veluri Ram, for the Respondent

Judgement

B. Prakash Rao, J.—In this revision filed under Article 227 of the Constitution of India, on a reference made by the learned Single Judge, the question which has been referred to, for decision on the importance of the question involved, is,

Whether Section 16 of the A.P. Civil Courts Act, 1972 is relevant to be taken into consideration or whether the relevant provisions governing the A.P. Court Fees and Suits Valuation Act, 1956 to be taken into consideration for the purpose of entertaining a suit?

2. Briefly, the facts, as referred to by the learned Single Judge, are that the petitioner, who is the defendant, sought to assail the orders passed in an Interlocutory Application in I.A.No.691 of 2007 in O.S.No.142 of 2007, dated 08.05.2007, on the file of the Ill-Additional Junior Civil Judge, Nellore, dismissing the application filed by him purported to be under Order VII Rule 10 of the Code of Civil Procedure, for a direction to return the plaint in the said suit on the ground that the pecuniary jurisdiction as mentioned in the plaint shows Rs. 1,72,000/- and therefore, the Court of Ill-Additional Junior Civil Judge, Nellore

has no jurisdiction to entertain the same having regard to the provision u/s 16 of the A.P. Civil Courts Act, 1972. Further it was contended that the valuation as taken for payment of Court fee u/s 24(b) of the A.P. Court Fees and Suits Valuation Act, 1956 has no concern with the jurisdiction of the Court to entertain the suit.

3. The reference order refers to the decisions, placed reliance on, in *Gunna Venkataratnam v. Gunna Kesava Rao* 1991 (1) APLJ 485 and *Syed Saleema Bee Vs. Syed Noorjahan and Another*, . Taking note of the submissions on behalf of the respondent/plaintiff in pressing into service the provisions of Section 24 of the A.P. Court Fees and Suits Valuation Act, 1956, on the basis of which, half of the market value was taken, which itself would constitute as a base to determine the jurisdiction of the Court, reference was made to the decision in *Workman of Pan American World Airways, K. Ramachandran Vs. Management of M/s. Pan American World Airways and Another*, .

4. On the aforesaid backdrop, the learned Single Judge felt that the question that arises is of importance and therefore, requires to be considered for an appropriate authoritative decision. Hence, the reference.

5. After hearing the counsel appearing on either side in this revision, Sri Kiran Kumar Vadlamudi, on behalf of the petitioner and Sri Veluru Ravi, on behalf of the respondent/plaintiff, this Court appointed Sri M.V. Durga Prasad, the learned Counsel as Amicus Curiae and also the learned Government Pleader for Arbitration. Further on Court notice, this Court has also taken the assistance of Sri Vilas V. Afzulpurkar, the learned Senior Counsel.

6. After considering the submissions made across the Bar by the aforesaid Counsel and also on perusal of the material, it is brought to our notice that the question, as referred to and as mentioned above, is no longer *res Integra*. In fact, a Full Bench of this Court in *Kalla Yadagiri and others Vs. Kotha Bal Reddy*, has already considered the very question from all perspectives, on appraisal of the provisions of both the Legislatures viz., A.P. Civil Courts Act, 1972 and A.P. Court Fees and Suits Valuation Act, 1956 and held that for the purpose of pecuniary jurisdiction of Courts, it is the valuation of the relief sought by the plaintiff that determines the jurisdiction of the Court, and further observed that the proper method is to value the Court fees and adopt that value for the purpose of jurisdiction. Therefore, from the detailed discussion as made therein, by referring to both the provisions, as mentioned by the learned Single Judge in this reference, it has been categorically held, "subject matter is not the same thing as the property, but is the substance for adjudication and it has reference to the right which the plaintiff seeks to enforce and the valuation of the suit depends upon the value of the subject matter thereof and the same is valued according to the A.P. Court Fees and Suits Valuation Act, 1956 and not A.P. Civil Courts Act, 1972."

7. While holding so, the Full Bench of this Court overruled the decision in *Gunna*

Venkataratnam's case (1 supra) and upheld the decision of this Court in Sidramappa Vs. Sangappa, . Further, the principles enunciated by the Supreme Court in S.Rm.Ar.S.Sp. Sathappa Chettiar Vs. S.Rm.Ar.Rm. Ramanathan Chettiar, was also placed reliance, which enunciates, while referring to the provisions of Section 7(iv) of the A.P. Courts Fees and Suits Valuation Act, 1956, that once the plaintiff exercises his option and values his claim for the purpose of Court-fees, that determines the value for jurisdiction. The value for Court-fees and value for the jurisdiction must no doubt be the same in such cases; but it is the value of the Court-fees stated by the plaintiff that is of primary importance. It is from this value that the value for jurisdiction must be determined. The result is that it is the amount at which the plaintiff has valued the relief sought for the purposes of Court-fees that determines the value for jurisdiction in the suit and not vice versa.

8. Having regard to the aforesaid authoritative pronouncement made by a Full Bench of this Court and the principles as laid thereunder, we are in entire agreement of the principles as laid down thereunder and we do not find any reason to defer with the same or to come to any different conclusions. Neither Counsel on either side has pointed out any other authoritative pronouncement, binding on this Court, which runs contrary to the principles laid thereunder. In view of the same, we hold that the principles laid down in Kall Yadagiri's case (4 supra) holds good.

9. During the course of the arguments, it is brought to our notice that the learned Single Judge, who referred the matter, had in fact, by placing reliance on the very same decision of the Full Bench in Kalla Yadagiri's case (4 supra), followed the same in toto and held that it is clear that for determining the pecuniary jurisdiction of the Court, the entire value of the subject matter need not be taken into consideration and the value relating to the half share i.e., the relief claimed by the petitioner/plaintiff alone has to be taken into consideration while deciding the pecuniary jurisdiction. The said decision of the learned Single Judge has been reported in Majeti Ravi Vs. Majeti Kameswara Rao and others, . However, unfortunately, in the present order of reference by the same learned Judge, neither the aforesaid decision in Majeti Ravi's case (7 supra), nor the decision of the Full Bench of this Court in Kalla Yadagiri's case (4 supra) was brought to the notice. It was also not brought to the notice of the learned Single Judge that the decision referred to in the reference order, in Gunna Venkataratnam's case (1 supra) has been overruled in the aforesaid decision of the Full Bench in Kalla Yadagiri's case (4 supra).

10. In view of the aforesaid reasons and principles governing the field as per the decision of the Full Bench of this Court in Kalla Yadagiri's case (4 supra), we answer the question referred to by the learned Single Judge, reiterating to the same effect that it is the valuation of the Court fees as made under the provisions of the A.P. Court Fees and Suits Valuation Act, 1956 which form part of the subject matter for all purposes including for the purpose of Section 16 of

the A.P. Civil Courts Act, 1972.

11. The Reference is accordingly answered. The Registry is directed to place the matter before the learned Single Judge.

12. While parting with the case, we thank Sri Vilas V. Afzulpurkar, the learned Senior Counsel and Sri M.V. Durga Prasad, the learned Counsel for the assistance rendered.