

Siddabasappa and Others Vs. Manjunatha and Others

Siddabasappa and Others Vs. Manjunatha and Others

SooperKanoon Citation : sooperkanoon.com/384167

Court : Karnataka

Decided On : Mar-30-1999

Reported in : 1999(5)KarLJ529

Judge : Mohamed Anwar, J.

Acts : Karnataka Court Fees and Suits Valuation Act, 1958 - Sections 7(2), 35(2) and 50(1)

Appeal No. : Civil Revision Petition No. 2887 of 1996

Appellant : Siddabasappa and Others

Respondent : Manjunatha and Others

Advocate for Def. : Sri H. Kantha Raju, Adv.

Advocate for Pet/Ap. : Sri R. Gopal, Adv.

Judgement :

ORDER

1. Heard.

2. The petitioners are defendants in O.S. No. 14 of 1994 pending on the file of the Court below. They have challenged the Trial Court's order dated 3-8-1996 passed on the preliminary point respecting the valuation of the suit for the purpose of its pecuniary jurisdiction.

3. The said O.S. No. 14 of 1994 was filed by the respondents against petitioners for the relief of partition and separate possession of their share in 6 items of suit property. Three of these items are agricultural lands and the remaining 3 were the items of house property. The valuation slip was filed by the plaintiff along with plaint giving necessary description of these items of property and valuing the suit under Section 35(2) read with Section 7(2) of the Karnataka Court Fees and Suits Valuation Act, 1958 ('the Act', for short) for the purpose of Court fee and the pecuniary jurisdiction as well at Rs. 200/- on the plaintiffs' alleged share, in addition to Rs. 450/- paid on their claim to Rs. 16,000/- towards arrears of maintenance allowance.

4. The parties hereto are hereinafter referred to according to their respective rank in the original suit.

5. The plaintiffs' suit was being contested by defendants who have filed the written statement. One of the defence raised therein by them was that the suit for the purpose of pecuniary jurisdiction was undervalued. Therefore, this point was taken up for its decision by the Court below as a preliminary point. By its impugned order the defence objection has been overruled by the Trial Court and it has further held that the suit has been properly valued by the plaintiff for the purposes of both Court fees and jurisdiction.

6. Mr. Gopal, representing petitioners-defendants rightly argued that the valuation of the suit under Section 7(2) read with Section 35(2) of the Act was correct insofar as it related to the payment of Court fees, but it is incorrect and improper as far as the point of pecuniary jurisdiction of the Court below is concerned. Support for this contention was drawn by him from the relevant provision contained in proviso (2) to sub-section (1) of Section 50 of the Act as also from a decision of this Court in *Revanasiddappa v Shivashankarappa and Others*.

7. The valuation of the said 3 agricultural lands was made by the plaintiffs at Rs. 138.25; Rs. 70.25 and Rs. 18.75 respectively, on the basis of the annual revenue tax payable with respect thereto in accordance with the relevant provisions under Sections 7(2) and 35(2) of the Act. As regards other 3 items of the house property, valuation was made on the basis of their market value. As indicated, the

petitioners had no objection as regards the valuation of the suit property so made by the plaintiffs in the valuation slip insofar as it related to the payment of Court fee only. Since this valuation is indisputedly in accordance with the relevant provisions in Sections 7(2) and 35(2) of the Act. But the petitioners objection against this valuation was in respect of the pecuniary jurisdiction of the Court below which objection has been brushed aside by it on the ground that the valuation made by the plaintiff with the aid of Section 7(2) read with Section 35(2) of the Act holds good for the purpose of pecuniary jurisdiction also.

8. A combined reading of the relevant Sections 7(2), 35(2) and the proviso to Section 50(1) of the Act makes it clear that the Trial Court's findings on the point of its pecuniary jurisdiction with reference to the said 3 agricultural lands is clearly erroneous in law. The proviso to Section 50(1) makes it explicitly clear that the valuation of the suit property under Section 7(2) is limited only for the purpose of computation of the Court fees and the same has no relevance for the purpose of determining the pecuniary jurisdiction of Courts, and that, for the latter purpose, it is the market value of the lands which is relevant. This proviso reads.-

'50. Suits not otherwise provided for.-(1).....

Provided that notwithstanding anything contained in sub-section (2) of Section 7, the value of land specified in clause (a), (b) or (c) of the said sub-section shall, for purposes of determining the jurisdiction of Courts, be the market value of such land'.

This Court has, in *Revanasiddappa v Shivashankarappa*, supra, expounded the law contained in the aforequoted proviso as follows.-

'The proviso to sub-section (1) of Section 50 is relevant for our purpose. It provides that even though for payment of Court fee the market value in respect of suits falling under sub-section (2) of Section 35, as in this case, and other sections referred to in subsection (2) of Section 7 is required to be determined as provided in Section 7(2), for purposes of determining the jurisdiction of Courts the valuation shall be on the basis of the market value of the lands. As to how such market value has to be reckoned or determined is stated in Section 7(1) and that has to

be the market value of the property prevailing on the date of the presentation of the plaint. From this it is clear, as observed in *Shrinivas Konheri v Subbappa Mahatru*, that separate valuation for purpose of Court fee and valuation is permissible in case of suits falling within the purview of Section 7(2) of the Act. In this view of the matter we have to see as to what was the market value of the property, according to the plaintiff, at the time he presented the plaint. He has furnished the details of the same in the valuation slip furnished in the plaint'.

9. Therefore, in the light of the proviso to Section 50(1) and of the authority of this Court in the case of *Revanasiddappa*, *supra*, the impugned order of the Court below does not sustain and it is liable to be set aside.

10. For the reasons aforesaid, the revision is allowed. The impugned order dated 3-8-1996 of the Court below passed on the point relating to valuation made by the plaintiff with respect to three items of suit agricultural lands, shown at Item Nos. 1, 2 and 6 in the valuation slip, for the purpose of its pecuniary jurisdiction is set aside. The matter is remitted to it for its fresh order on the point relating to its pecuniary jurisdiction in the light of the defendants' objection and the observations made hereinabove.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com