

Sidramappa Vs. Sangappa

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Court : Andhra Pradesh

Decided On : Sep-11-1964

Reported in : AIR1966AP66

Judge : Satyanarayana Raju and ;Kumarayya, JJ.

Acts : Andhra Court Fees and Suits Valuation Act, 1956 - Sections 29, 50, 50(1) and 50(2); Code of Civil Procedure (CPC) - Sections 6; Madras Civil Courts Act

Appeal No. : Civil Revn. Petn. No. 1417 of 1963

Appellant : Sidramappa

Respondent : Sangappa

Advocate for Def. : M.A. Khader, Adv. and ;Govt. Pleader

Advocate for Pet/Ap. : Trimbak Rao Deshmukh, Adv.

Disposition : Petition dismissed

Judgement :

Kumarayya, J.

1. This Civil Revision Petition raises essentially a question of jurisdiction. The point for determination is, whether the District Munsif, Zaheerabad did not have pecuniary jurisdiction to entertain the suit. The suit as brought, it may be noted, is

for possession of five items of land bearing S. Nos. 33, 40/2, 78/1, 78/2 and 78/3 and also for past mesne profits in a sum of Rs. 600. The value of the lands as assessed by the plaintiff in his plaint was only Rs. 2,500. On the objection raised by the defendant, the learned District Munsif after due enquiry found that having regard to their location and fertility their market value must be assessed at Rs. 5,560 at the rate of Rs. 400 per acre. Accordingly he directed the plaintiff to make good the deficiency in Court-fee, payable under Section 29 of the Andhra Pradesh Court-fees and Suits Valuation Act 1956 (hereinafter referred to as an Act).

As a result of the above finding, a further question that arose for determination was, whether, having regard to the said value and the extent of mesne profits claimed, the suit is within the pecuniary limits of jurisdiction of the District Munsif. The learned District Munsif held that it was well within his jurisdiction because the value of the suit for the purpose of determining the jurisdiction is the same as that for computing the court-fees as enjoined by Section 50 of the Act and that the value thus worked out does not exceed a sum of Rs. 5,000. This finding of the learned District Munsif is called in question in this proceeding by the defendant-petitioner. A further ground also was raised in the petition against the correctness of the market value assessed by the Court but no argument has been advanced in that behalf probably in view of the provisions of Section 11(3)(a) of the Act. The whole controversy thus centred round the question of jurisdiction alone.

2. It is urged that it is not the 3/4ths of the market value which is taken into account for purposes of court-fee in suits of this nature but only the full market-value of the subject-matter that would determine the jurisdiction of the Court. It is also urged that if Section 50 of the Act is capable of a different construction it must yield to the clear intendment to the above effect of the provision of Section 6 of the C. P. C. which is a Central Act.

3. We may state at once that this argument is unsustainable as it proceeds on a fallacious basis that there is a conflict or inconsistency between Section 6 C. P. C. and Section 50 of the Act. Section 6 C. P. C. reads thus:

'Save in so far as is otherwise expressly provided, nothing herein contained shall operate to give any Court jurisdiction over suits the amount or value of the subject

matter of which exceeds the pecuniary limits (if any) of its ordinary jurisdiction.'

It is manifest that this section speaks of only the pecuniary jurisdiction and not of territorial nor even of jurisdiction of the Court with reference to the nature of the suit. All that it says is that nothing contained in the Code shall operate so as to give any court jurisdiction over suits the amount or value of the subject matter of which exceeds the pecuniary limits, if at all any, of its ordinary jurisdiction. This prohibition is subject to the saving provided in the opening clause of the section. Indeed Section 6 is not a self-contained or a complete provision by itself so that the prohibition contained therein may be capable of being enforced without reference to any other enactments. Even to ascertain the limits of pecuniary jurisdiction of a Court referred to in that section, a reference to Madras Civil Courts Act (Central Act III of 1873) is inevitable. Section 12 thereof reads thus:

'The jurisdiction of a District Judge or a Subordinate Judge extends, subject to the rules contained in the Code of Civil Procedure, to all original suits and proceedings of a civil nature.

The jurisdiction of a District Munsif extends to all like suits and proceedings, not otherwise exempted from his cognizance, of which the amount or value of the subject matter does not exceed five thousand rupees.'

Further though both Section 6 C. P. C. and Section 12 of the Madras Civil Courts Act refer to the amount or value of the subject matter, there is no provision anywhere in either of the enactments which goes to direct the mode in which the amount or value of the subject matter of the suit is to be calculated. This is because there is a special enactment known as the Suits Valuation Act, which must hold the field in the absence of any prohibition in either of the Central Acts. In fact the words 'save in so far as is otherwise expressly provided' employed in Section 6 C. P. C. are pregnant with meaning and are a clear pointer that this provision should be read subject also to the provisions of the Suits Valuation Act which prescribes the mode of valuing certain suits for purposes of determining jurisdiction.

Thus section 6 C. P. C. in its ultimate analysis does no more than declare in general terms the avowed object of the Code not to give jurisdiction over suits to any Civil Court wider than that determined by the pecuniary limits, if any, of its ordinary jurisdiction. This, of course, as the opening clause of the section shows, is subject to the express provision if any to the contrary made in any statute. Further Section 6 is not primarily concerned with actual fixation of pecuniary limits of ordinary jurisdiction. That is essentially within the province of the Civil Courts Act. Nor is it concerned with the mode of valuation of the subject-matter of the suit for purposes of determining jurisdiction that being pre-eminently within the domain of the Suits Valuation Act.

We have in this State a consolidated Act both for Court-fees and Suits Valuation, known as the Andhra Pradesh Court-Fees and Suits Valuation Act. Valuation of the subject-matter of the present suit for purposes of determining jurisdiction has therefore to be determined on the terms of the relevant provision of that Statute. It is common ground that Section 50(1) is such provision. Section 50 reads thus:

'50(1). If no specific provision is made in this Act or in any other law regarding the value of any suit for the purpose of determining the jurisdiction of Courts, value for that purpose and value for the purpose of computing the fee payable under this Act shall be the same.

(2) In a suit where fee is payable under this Act at a fixed rate, the value for the purpose of determining the jurisdiction of Courts shall be the market-value of the movable property or three-fourths of the market-value of the immoveable property or where it is not possible to estimate it at a money value the amount stated in the plaint.'

We are not concerned with Sub-clause (2) of Section 50. Sub-clause (1) provides that in cases where no specific provision is made for valuing the suit for purposes of jurisdiction, the value of the suit for purposes of determining jurisdiction is the same as that assessed for computing the Court-fee payable under the Act. That specific provision need not be in the Act itself. It may as well be in any other statute. All that is essential is that such provision must be for the valuation of the suit for purposes of jurisdiction. As already noticed, the Code of Civil Procedure

does not contain any such provision. Nor is there anything in the Madras Civil Courts Act to indicate that Legislature intended the amount or value for purposes of District Munsif's jurisdiction to be assessed or estimated in any established or special manner prescribed therein. The only lawful mode then available in Statute Book to be adopted for valuing the suit for purpose of determining jurisdiction is what is provided in the Andhra Court-Fees and Suits Valuation Act. Section 50 is the only relevant section governing the instant case. It is in no manner whatsoever in conflict with any of the Central Acts, either the Madras Civil Courts Act or Section 6 of the C. P. C. Far from being inconsistent with them, it simply advances their cause and gives practical effect to their intendment. The contention of the learned counsel to the contrary must therefore fail.

4. Once it is clear that Section 50(1) of the Act governs the situation, there can be little doubt that this petition must fail. As already noticed, under Section 50(1), the value for purposes of determining jurisdiction is the same as that for computing the court-fee. The value for purposes of Court-fee was computed on 3/4th value of the lands as enjoined by Section 29 of the Act. So then the same shall be the value for purposes of jurisdiction. The amount of mesne profits of course shall have to be added thereto. Even so, the amount or value of the subject matter will not exceed Rs. 5,000 so that the suit may fall beyond the pecuniary jurisdiction of the District Munsif.

5. Learned counsel for the petitioner, Sri Triambakrao Deshmukh, relying on certain observations in some rulings cited by him argued that even under Section 50(1), it is the full market value of the immovable property that should determine the value of the subject matter of the suit for determining jurisdiction. The construction sought to be placed on the section is unwarranted and the authorities cited do not advance his contention. *Jeebraj Singh v. Inderjeet Mahtoon*, 18 Suth WR 109 was a case decided on the provisions of Act VII of 1870. On the question of jurisdiction, it was held that there was nothing to show that it was the intention of the Legislature that the mode of assessing the value for computing the court-fee was to be applicable to the question of jurisdiction of the court and was to be used in ascertaining what was the value of the subject-matter in dispute.

On similar lines proceeded the judgment in Nanhoon Singh v. Tofanee Singh, 20 Suth WR 33. As the law then existed, there was no express provision in the statute such as we have now with regard to the mode of computing the value for determining jurisdiction. The cases decided in that premises cannot be a guide or authority for the proposition advanced.

6. The other ease relied on by the learned counsel, viz., Iswar Chandra v. Chulo Garo, AIR 1940 Cal 375 was decided no doubt under Section 8 of the Suits Valuation Act but it was on a different provision. Of course, the case decided by a single Judge of the Madras High Court in Mahaboo Bivi v. Abdul Hameed, 1958-2 Mad LJ 225 seems to lend assistance to the learned counsel inasmuch as on an interpretation of Section 50(1) of the Act together with Section 28 corresponding to Section 27(1) of the Act, the learned Judge came to the conclusion that the pecuniary jurisdiction of court has to be determined only on the basis of the market value and not on the concessional ceiling on the quantum of court-fee payable. On this basis, it was held that though the valuation for purposes of court-fees is to be 1/5th of the market value of the property which was to be taken into account, the market value of the entire subject-matter which exceeded that limit, was to be taken into consideration for determining the jurisdiction of court and the value of the subject matter was therefore beyond the pecuniary jurisdiction of the District Munsif's Court. With due deference, we beg to differ. Section 50(1) is explicit in its terms and does not bear even a vague reference to the market value at all not even as in section 50(2). It is difficult to conclude that pecuniary jurisdiction should nevertheless be determined only on the full market value of the property. This point was considered by this court in Venkata Subbamma v. Ramaseshamma, 1959-2 Andh WR 238 where Munikannaiah, J. did not agree with the proposition that, under the provisions of Section 50(1) of the Act, the value of the suit for the purpose of computing the court-fee payable under the Act and that for determining the jurisdiction in effect could at all be different. We agree with that reasoning and hold that in a case governed by Section 50(1) the value of the subject matter for determining the jurisdiction shall be the same and not different from the value of the subject-matter for computing the court-fee. When it is clear that the value of the subject-matter for determining the jurisdiction has to be assessed according to the prescribed mode of the provisions in the Suits Valuation Act, any departure

therefrom cannot be permitted in law. The value has to be computed exactly in the manner prescribed. Judged thus, the contention that the entire market value must be taken for determining the jurisdiction cannot be upheld. We therefore uphold the order of the District Munsif and dismiss the revision petition with costs.

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