

S. Sekar Vs. Mariammal

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SooperKanoon Citation : sooperkanoon.com/829460

Court : Chennai

Decided On : Oct-28-1997

Reported in : (1998)1MLJ764

Appellant : S. Sekar

Respondent : Mariammal

Judgement :

ORDER

V. Rengasamy, J.

1. This revision is against the order of the VII Additional Judge, City Civil Court, Madras with regard to the court-fee paid by the revision petitioner herein. Before the passing of the G.O. No. 1742, Home, dated 23.11.1995, the jurisdiction for the value of the suit exceeding rupees one lakh in the Metropolitan area was only in the High Court and by virtue of the abovesaid G.O. the pecuniary jurisdiction of the Subordinate Court is raised to Rs. ten Lakhs. The revision petitioner herein before the passing of the abovesaid G.O. presented a suit in the High Court paying the court-fee that was payable for the suit filed in the High Court: but as the pecuniary jurisdiction of the Subordinate Court was raised, the plaint presented in this Court has been returned for presentation in the proper court. Before the Subordinate Court the valuation of the property will be on ad valorem basis and the deficit court-fee was asked to be paid by the plaintiff. However, the revision

petitioner/plaintiff contended that as he presented the suit in the High Court, the ad valorem court-fee cannot be calculated and no further court-fee is payable by the plaintiff. As the VII Additional Judge did not accept this contention the plaintiff has filed this revision.

2. It is argued for the petitioner by Miss. Kalarani that before passing of the G.O. No. 1742, Home, dated 23.11.1995 the suit was maintainable only in the High Court and therefore, the court-fee that is payable in the High Court has been properly paid in the plaint. That though the jurisdiction of the Subordinate Court is raised to Rs. ten lakhs, the petitioner is not liable to pay the ad valorem court-fee as worked out by the VII Additional judge, City Civil Court, Madras, because when once the plaint was presented in the High Court, with the proper court-fee payable to the High Court, now they cannot claim the additional court-fee. This contention is not acceptable because if the plaint had been taken on file in the High Court accepting the court-fee paid already, the matter would have been different, but the suit was not taken on file in the High Court and even in the stage of presentation it was returned as the Subordinate Court had the jurisdiction to try the suit. Therefore, the ad valorem court fee payable for the suit claim alone is payable by the revision petitioner. The order of the court below is right in directing the plaintiff to pay the deficit court-fee. There is no error in the order. The revision is therefore dismissed in the admission stage.