

Mosali Narayana Reddy and Another Vs Pothagani Bojjanna

Court: Andhra Pradesh High Court

Date of Decision: April 5, 1996

Acts Referred: Andhra Pradesh Civil Courts Act, 1972 " Section 16(2)
Andhra Pradesh Court Fees and Suits Valuation Act, 1956 " Section 26

Citation: (1996) 2 ALT 44

Hon'ble Judges: Motilal B. Naik, J

Bench: Single Bench

Advocate: T. Niranjan Reddy, for the Appellant; Govt. Pleader for Revenue, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Motilal B. Naik, J.

This Civil Revision Petition is directed against the order passed by the lower Court on unnumbered plaint on 20-09-1995.

2. The petitioners are the plaintiffs, who presented the plaint, which is unnumbered, before the lower Court under Order 7, Rule 1 of the CPC read

with Section 26 of the CPC seeking a decree and judgment restraining the defendant therein and his men in any way from interfering with the

plaintiffs" peaceful possession and enjoyment of the plaint scheduled property, that is to say, the suit was filed seeking for a permanent injunction

against the defendant. The petitioner estimated the value of the properties for the purpose of pecuniary jurisdiction at Rs. 74,000/- and presented

the suit before the District Munsif Court, Piler. For the purpose of relief of injunction, the petitioners tentatively estimated the value of the relief at

Rs. 2000/- and paid a Court fee of Rs. 186/- as provided u/s 26(c) of the A.P. Court Fees Act, 1956. The lower Court returned the plaint to the

petitioners directing them to present before the appropriate Court as the value of the suit for the purpose of pecuniary jurisdiction is more than Rs.

50,000/- by order dated 20-9-1995 against which the present Civil Revision Petition is filed.

3. This Court while ordering notice before admission in this matter, gave notice to the learned Government Pleader for Revenue to assist the Court

in this behalf, pursuant to which the learned Government Pleader for Revenue appeared before this Court and assisted in this matter.

4. Sri. Niranjana Reddy learned counsel appearing on behalf of the petitioners contended that the relief sought in the suit is for the permanent

injunction against the defendant, and therefore, for the purpose of paying the Court Fee the relief sought was notionally valued at Rs. 2,000/- and

paid the Court Fee of Rs. 186/- as provided u/s 26(c) of the A.P. Court Fees Act, 1956. It is contended that the lower Court ought not to have

rejected to receive the suit which was presented. In support of his contention, Sri. Niranjana Reddy has relied on a decision of this Court in the case

of K. Subramanya Naidu and Another Vs. Adilakshmiamm and Another, .

5. On the contrary, the learned Government Pleader, who represented the Revenue Department, has stated that the lower Court is justified in

directing the petitioner to present the suit in an appropriate forum i.e., the Subordinate Court. As per the provisions of Section 16(2) of the A.P.

Civil Courts Act, 1972, suit valued for the purpose of pecuniary jurisdiction if exceeds more than Rs. 50,000/-, it is only the Subordinate Courts

within whose jurisdiction the suit properties fall, are competent to entertain the suit, and therefore, it is contended that the lower Court has rightly

directed the petitioners to present the suit in the competent Subordinate Court.

6. The short point now therefore arises before this Court for consideration is whether the order of the lower Court directing the petitioners to

present the suit in the appropriate Subordinate Court is proper. Admittedly, the suit is filed for a permanent injunction seeking restraining the

defendant therein from interfering with the peaceful possession and enjoyment of the suit schedule properties to an extent of Ac.3 -13 cents

situated in Sy.No. 1104/AI in Maddipatlavaripalli village, Piler Sub-Division, Chittoor District. The market value of these suit properties have been

estimated by the petitioner at Rs. 74,000/- So far as the purpose of payment of Court Fee is concerned, the petitioner have notionally valued the

relief at Rs. 2,000/- and an amount of Rs. 186/- has also been paid towards Court Fee as provided u/s 26(c) of the A.P., Court Fees and Suits

Valuation Act.

7. It is to be remembered that in cases of this nature, a distinction has to be made as to the value of the suit schedule properties for the purpose of

presenting it in the appropriate Court, that is to say, for the purpose of pecuniary jurisdiction, the values of the properties, are to be taken into

consideration. Insofar as the payment of Court Fee is concerned, separate provisions are contemplated under the Court Fees Act and basing on

the relief sought in the suit, the parties are at liberty to value the suit relief and pay the Court Fee. In this case, the petitioners have valued the suit

property for the purpose of pecuniary jurisdiction at Rs. 74,000/-. Of course, the petitioners have valued the relief of injunction nationally at Rs.

2,000/- and paid the Court Fee of Rs. 186/- as provided u/s 26(c) of the A.P. Court Fees and Suits Valuation Act. Payment of Court Fee of Rs.

186/- and valuing the relief sought in the suit at Rs. 2,000/- in my view, shall not be a ground for the petitioners to say that the value of the suit is

only Rs. 2,000/-, and they are entitled to present in the District Munsif Court, which has pecuniary jurisdiction limited to entertain the suit upto a

value of Rs. 50,000/-. The decision cited by the learned counsel for the petitioner in K. Subramanya Naidu v. Adilakshmiammal (cited supra),

make it abundantly clear that in so far as payment of Court Fees is concerned with reference to the provisions u/s 26(c) the party is at liberty to

notionally value the relief of injunction and pay the Court Fees according to the notional value. As indicated above, a distinction has to be made in

cases of this nature - one is for the purpose of paying the Court Fee on the basis of relief sought by the party and the other is for the purpose of

presenting a suit basing on the value of the property.

8. In my view, taking the submissions into consideration and the order passed by the Court below, the Court below is justified in directing the

petitioners to present the case before the Subordinate Court, which has the pecuniary jurisdiction over the property to entertain the suit as the

petitioners themselves have valued the suit properties for the purpose of pecuniary jurisdiction at Rs. 74,000/-. It is open to them to pay proper

Court Fee, on the basis of notional value being determined by the plaintiffs themselves as provided u/s 26(c) of the A.P., Court Fees and Suits

Valuation Act, 1956.

9. The Civil Revision Petition is accordingly dismissed. No costs.

10. The Office is directed to return the original plaint along with the Civil Revision Petition enabling the petitioners to present it before the

appropriate Court.