

Singarachariar, Legal Representative of Deceased Trustee, Srinivasachariar Vs. Lakshmanan Chettiar and ors.

LegalCrystal Citation : legalcrystal.com/785771

Court : Chennai

Decided On : Nov-17-1948

Reported in : (1949)1MLJ195

Appellant : Singarachariar, Legal Representative of Deceased Trustee, Srinivasachariar

Respondent : Lakshmanan Chettiar and ors.

Judgement :

P.V. Rajamannar, C.J.

1. The only point which calls for consideration in this second appeal is the question of jurisdiction. The second appeal arose out of a suit filed by one Lakshmanan Chettiar for himself and on behalf of the creditors of defendant 1 to set aside the order passed on a claim petition filed by the second defendant, claiming properties attached by the said Lakshmanan Chettiar as properties, belonging to his judgment-debtor. The property was claimed by the second defendant on the strength of a trust deed, which was challenged by the decree-holder as a sham and nominal deed. Though the suit originally was merely to set aside the summary order, it was subsequently amended so as to include a prayer for a declaration that the trust deed executed by the first defendant, the judgment-debtor, was a sham, nominal and fraudulent transaction, which had been brought into existence with the evil intention of defrauding the creditors. The suit was filed in the Court of the District Munsiff of Vridhachalam. A court-fee of Rs. 15 was paid under Schedule II, Article 17-B. The valuation for purposes of jurisdiction was given as follows : 10 times the assessment of Rs. 65-15-0, i.e., Rs. 659-6-0, or the decretal amount of Rs. 2,621-7-0 as per the last E.P. Mr. Muthukrishna Aiyar, the learned advocate for the appellant, contended that as it had been found that the market value of the properties exceeded Rs. 9,000, the District Munsiff had no jurisdiction to entertain the suit. Reliance was placed by him on the decision of a Division Bench in Vasireddi Veeramma v. Butchayya (1926) 52 M.L.J. 381 : I.L.R. 50 Mad. 646. We do not think that this decision has a direct bearing on the question to be decided in this appeal. That decision related to a suit brought for a declaration as to the invalidity of an adoption, and it was held that under Section 12 of the Madras Civil Courts Act, the value must be deemed to be the market value of the properties which would be affected by a decision as to the validity of the adoption. The learned Judges were of the opinion that the suit before them did not fall within Section 14 of the Act. In a subsequent decision, Arumugha Mudaliar v. Venkatachala Pillai (1932) 64 M.L.J. 568 : I.L.R. 56 Mad. 716. Krishnan Pandalai, j., held, in respect of a suit practically identical with the present suit, that is, a suit to set aside a summary order relating to immoveable property, that Section 14 of the Madras Civil Courts Act would apply, and therefore for the purpose of jurisdiction, the

subject-matter had to be valued in the manner provided by Section 7(v) of the Court-Fees Act. With respect to the learned Judge, we are in entire agreement with his decision and his construction of Section 14. This decision was followed by Pandrang Row, J., in C. M. A. No. 52 of 1931. That case related to a suit by a defeated claimant under Order 21, Rule 63, Civil Procedure Code. The learned Judge held that the subject-matter of such a suit would be 'land, house or garden,' and that being the case, the value had to be fixed in accordance with the provisions of Section 14 of the Madras Civil Courts Act, that is, in the manner provided by Section 7, Clause (v) of the Court-Fees Act. Admittedly, the valuation in accordance with this provision does not; exceed the pecuniary limit of the District Munsiff's jurisdiction. The learned Advocate for the appellant desired to raise other points which, however, do not appear to have been raised before the learned District Judge. He cannot be permitted to raise them in second appeal.

2. This second appeal is dismissed with costs of the sixth respondent.

LegalCrystal - Indian Law Search Engine - www.legalcrystal.com