

IN THE COURT OF CIVIL JUDGE JUNIOR DIVISION SHAHPUR PATORY

TITLE SUIT NO. 38/2020

Domin Devi and others v. Prema Kumari and others

Date	Order Passed	Office Action Taken
08/06/2026 ५२५१२	1. The present petition dated 30.06.2025 has been filed on behalf of the defendants under Order XIV Rule 2(a) read with Order VII Rule 10 of the Code of Civil Procedure praying for return of the plaint on the ground that the suit is beyond the pecuniary jurisdiction of this Court. 2. Heard learned counsel for the parties. Perused the records. 3. The defendants have contended that the plaintiff has instituted the present suit for declaration of title and recovery of possession by valuing the suit at ₹1,40,000/- in paragraph 11 of the plaint. It is submitted that such valuation is grossly incorrect and has been specifically denied in the written statement. Reliance has further been placed upon the testimony of P.W.-2 who, during cross-examination, stated that the valuation of the suit property would be around ₹10,00,000/-. On the strength of the said statement, it has been argued that the suit exceeds the pecuniary jurisdiction of the Court of Civil Judge (Junior Division) and, therefore, the plaint is liable to be returned under Order VII Rule 10 CPC. 4. The plaintiff, by filing rejoinder dated 27.07.2025, has opposed the petition and submitted that the issue of valuation already stands incorporated in the issues framed by the Court and cannot be decided as a preliminary issue at this advanced stage of trial. It has further been contended that an isolated statement made by a witness during cross-examination cannot constitute a legal basis for determining the valuation of the suit. The plaintiff has also submitted that the suit property was purchased in the year 1995, the suit was instituted in the year 2020 and the cross-examination was conducted in the year 2025, and therefore the witness was referring to the contemporary market value and not the valuation relevant for institution of the suit.	

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5. In order to ascertain the factual position, this Court called for a report from the office of the Sub-Registrar, Shahpur Patori regarding the Minimum Value Register applicable to the concerned area. In response thereto, it has been reported that the minimum valuation of residential land in Circle Patori (Mauza Dhamon) as notified on 16.05.2013 was ₹46,000/- per dismal. The suit property measures 7.3 dismals. Thus, even on the basis of the official minimum valuation register, the value of the property would come to approximately ₹3,35,800/-.

6. The question that therefore arises is whether, on the basis of the materials presently available, the plaint is liable to be returned under Order VII Rule 10 CPC.

7. At the outset, it is well settled that while considering a plea relating to valuation and jurisdiction, the Court must primarily look to the averments contained in the plaint. Jurisdiction cannot ordinarily be determined on the basis of a stray answer elicited during cross-examination of a witness. The Hon'ble Supreme Court in **Sathappa Chettiar v. Ramanathan Chettiar**, AIR 1958 SC 245 authoritatively held that in suits falling under Section 7(iv) of the Court Fees Act, the valuation put by the plaintiff is of primary significance and the value for purposes of jurisdiction ordinarily follows the valuation adopted for court fees.

8. The law is equally settled that the question of valuation must be examined with reference to the date of institution of the suit and not with reference to any subsequent increase in market value. A later appreciation in the value of the property does not retrospectively divest the Court of jurisdiction which validly existed on the date of institution.

9. Further, Order XIV Rule 2 CPC permits trial of a preliminary issue only when the issue relates to the jurisdiction of the Court or a statutory bar to the suit and is capable of being decided purely as a question of law. Where determination of jurisdiction depends upon disputed questions of fact requiring appreciation of evidence, such issue ordinarily cannot be segregated and tried as a preliminary issue.

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10. In the present case, the plea of the defendants is founded substantially upon the oral statement of P.W- 02 recorded during cross-examination. Whether the witness was referring to the valuation as on the date of purchase, as on the date of institution of the suit, or as on the date of deposition, is itself a matter requiring appreciation of evidence. Such disputed factual aspects cannot form the sole foundation for return of the plaint at this stage.

11. However, this Court cannot also lose sight of the report received from the office of the Sub-Registrar, Shahpur Patori. The official Minimum Value Register indicates that the value of 7.3 dismals of residential land in the concerned locality would be substantially higher than the valuation of ₹1,40,000/- disclosed in the plaint. Therefore, a prima facie doubt does arise regarding correctness of the valuation furnished by the plaintiff.

12. Nevertheless, even assuming that the suit has been undervalued, the legal consequence is not an automatic return of the plaint. The scheme of Order VII Rule 11(b) and Section 149 CPC clearly contemplates that where the relief is undervalued or court fee is deficient, the plaintiff must first be afforded an opportunity to correct the valuation and make good the deficiency. The Hon'ble Supreme Court has repeatedly held that procedural law is intended to advance the cause of justice and that deficiency in court fee is curable by recourse to Section 149 CPC.

13. In the case at hand, evidence of the parties has already progressed substantially. The issue relating to valuation is interwoven with factual matters and cannot be conclusively determined merely on the basis of a statement of a witness. Moreover, no adjudication regarding proper valuation has yet been made by the Court after recording evidence.

14. Consequently, this Court is of the considered opinion that the prayer for return of the plaint under Order VII Rule 10 CPC is premature and not maintainable at this stage. The question whether the suit has been properly valued shall remain open for determination at the time of final adjudication on the basis of the entire evidence on record. In the event the Court ultimately arrives at a finding that the

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suit has been undervalued or that additional court fee is payable, appropriate directions may be issued in exercise of powers under Section 149 CPC before pronouncement of judgment.

15. Accordingly, the petition dated 30.06.2025 filed by the defendants under Order XIV Rule 2(a) read with Order VII Rule 10 CPC is hereby **rejected**.

16. It is clarified that observations made herein are only for disposal of the present petition and shall not prejudice the determination of the issue relating to valuation at the stage of final judgment.

Put up on 13-07-26 for plaintiff's evidence.

(Dictated)



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Shahpur Patory