

R.A. No.5020/2022

Order pronounced

**ORDER ON IA NO.III**

The applicant/respondent has filed this I.A. u/sec. 151 of the Code of Civil Procedure praying to hear about pecuniary jurisdiction of this court and to decide this appeal. This I.A. has been filed at the stage of hearing on other IAs.

2. In the affidavit filed in support of this IA, the applicant has mainly stated that the valuation of the suit schedule properties for the purpose of jurisdiction of the court has been mentioned as more than Rs.12,00,000/-. The appellant has shown the valuation of the suit schedule properties No.1 to 4 at Rs. 6,00,000/- in the valuation slip submitted in the trial court and therefore, this appellate court has no pecuniary jurisdiction to entertain and try this appeal. On this main ground, the applicant has prayed for allowing this I.A.

3. Per contra, the appellant has filed the objections praying to reject this I.A on the main grounds that the market value of the suit properties exceeds more than Rs.12,00,000/- and claim for the purpose of court fee and jurisdiction of the court is Rs.6,00,000/-. Both the plaintiffs being brothers have claimed share in the partition in the suit properties shown at Sl. No.5 and 6. The respondent has not produced any authenticated government valuation certificate to justify his allegations.

4. Heard and perused the case records.

5. Now the only point that arises for discussion and determination is **“Whether this court has no jurisdiction to entertain and try this appeal?.**

6. My finding on the above point is in the Negative for the following:

#### **REASONS**

7. During the course of argument, the learned counsel for the respondent has relied upon the following decision:

**i) AIR 1991 Allahabad 157  
(Devndra Singh Vs. Bole Ram).**

Wherein it is held that the consent of the party cannot confer jurisdiction on the court to try a suit.

**ii) AIR 2002 Madhya Pradesh  
160 (Shabbir Hussein and others**

**Vs. Naade Ali and others.)** Wherein it is held that so far as the valuation for declaration and permanent injunction is concerned, the allegations in the plaint alone should be considered for computation of court fee and that the question of jurisdiction of court must be considered in the light of allegations made in the plaint and its decision cannot be influenced by the pleas in the written statement or by final decision of the suit on merits. It is further held that the plaintiff is normally at liberty to value the relief claimed.

8. I have carefully gone through the case records and the I.A. A perusal of the case records including the xerox copy of the plaint in O.S. No.170/2006 makes clear that this appeal has been filed by the defendant No.3 against the judgement and decree passed by the court of the Prl. Senior Civil Judge, Chikodi. The suit filed before the trial court is for partition of plaintiffs' 1/4th share in the suit schedule properties. In the trial court, the question of pecuniary jurisdiction has not been raised.

9. From the reading of plaint, it makes clear that the plaintiffs have stated that the market value of the entire suit schedule properties is more than Rs.12,00,000/- for the purpose of jurisdiction. In the valuation slip also, said value of the suit schedule properties is shown. Further it is also stated therein that the actual market value of the suit schedule properties is more than Rs.6,00,000/- for the purpose of jurisdiction. Admittedly, the plaintiffs have sought for 1/4<sup>th</sup> share in the suit schedule properties. In the plaint, it is stated that 1/4th share may be allotted to the plaintiff No.2 in the

suit schedule properties No.5 and 6 and alternatively, it is prayed for awarding 1/4th share to the plaintiff No.2 in all the suit schedule properties in case, the plaintiff No.2 failed to prove his ownership and possession over the suit schedule schedule properties No.1 to 4. What it goes to show is that if the market value of the subject matter is taken into account as Rs.12,00,000/-. the market value of 1/4<sup>th</sup> share of the plaintiffs would come to Rs. 6,00,000/-.

10. Therefore, I am of the considered view that this court has got pecuniary jurisdiction to entertain and try this appeal. In this background, this I.A. being devoid of merits deserves to be rejected and hence, by keeping in mind the plaint averments and the materials available and record and also the above referred decisions, I have answered the above point in the NEGATIVE and I proceed to pass the following:

**ORDER**

**i) The IA No.III filed by the  
respondent U/sec. 151 of the**

**Code of Civil Procedure stands  
REJECTED.**

**ii) No order as to cost.**

(Dictated to the Typist directly over computer and typed by him and corrected, signed and then pronounced by me in the Open Court on this the 09<sup>th</sup> day of June 2023).

**(S. L. CHAVHAN)  
VII Addl. Dist. and Sessions Judge,  
Belagavi, Sitting at Chikkodi.**

For hearing on I.As. No.IV and V.  
Call on 03-07-2023.

09/06  
VII Addl. District and Sessions Judge,  
Belagavi, Sitting at Chikkodi.