

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE
AT CHENGALPATTU**

**Present: Thiru.A.Saravanakumar.,B.A.B.L.,
Additional District Judge,
Chengalpattu.**

Friday, the 4th day of July 2025

I.A.No.3/2024

in

O.S.No.180/2014

CNR.No:TNCG01-000257-2014

1.Mrs.S.Usha

2.Ms.Kirthyka Subash

...Petitioners/Defendants 3 and 4

-Vs.-

Mr.Sailendra Kumar Jain,

Represented by his power Agent Mr.Ramachandran

..Respondent/Plaintiff

This Petition coming before this court on 20.6.2025 for final hearing in the presence of Mr.R.Sugumar,K.Jahir Husain, S.Velmurugan and A.Sakthivel, counsels for the Petitioners/ Defendants 3 and 4 and Mr.N.Ravi, counsel for the Respondent/Defendant and upon hearing the arguments of both sides and perusing the material records and having stood over for consideration till this day, this Court delivered the following:-

ORDER

This petition has been filed under Order 7 Rule 11(b) r/w Order 14 Rule2(2) of CPC to decide the question of under valuation as a preliminary issue and grant such other suitable relief.

2. The Petition averments in brief as follows:-

The 2nd petitioner is the 4th defendant in the above suit. The petitioner filing this affidavit on behalf of the 1st petitioner and 3rd defendant in the above suit. The respondent/plaintiff has filed the above suit for declaration

of his alleged title to the suit B schedule property and for other reliefs. The respondent has filed a downloaded guideline as one of the documents, along with plaint for the purpose of numbering the plaint. In that guideline value it is stated that the guide line value is Rs.700/- per sq ft. But we have downloaded the guideline value from the internet, which states that the guide line with effect from 1.4.2012 is per Rs.2,500/- per sq ft. The petitioners have already filed the same along with a petition to reject the plaint. And also filed a detailed written statement. Further the petitioner submit that their petition to reject the plaint was dismissed by this court on 26.7.2022. Hence, petitioners have filed C.R.P. before Hon'ble High Court, Madras and the same was disposed on 3.11.2022 and liberty was given to petitioner to file necessary application before this court requesting to decide the question of under valuation as a preliminary issue and also to file a written statement raising our objection as court fee. It is also settled law that under valuation of the suit has to be decided first, before trial. Hence, this application is filed to decide the question of under valuation as preliminary issue. Otherwise, petitioners will be put to irreparable loss and hardship. Balance of convenience lies in allowing this application. No prejudice would be cause to the other side.

3.The averments in the counter filed by the Respondent in brief as follows:-

The petition is not maintainable in law and on facts. The petitioner has already filed an application to reject the plaint on the ground that the suit property was grossly under-valued, after contest, the petition was

dismissed. As against the dismissal the petitioner has filed CRP before the Hon'ble High court, Madras and the said CRP was also disposed off. Now with regard to the same aspect this petition has been filed under Order 7, Rule 11(d) read with order 14, rule 2(2) CPC is not at all maintainable. The petition is barred under the principles of res-judicata. At this juncture, it is useful to refer Order 14, Rule 2(2)- Order 14, Rule 2(2) to pronounce judgment on all issues, Rule 2(2)- where issues both of law and of fact arises in the same suit and the court is of opinion that the case or any part thereof may be disposed of on an issue of law only, it may try that issue first if that issue relates to a) The jurisdiction of the court or b) a bar to the suit created by any law for the time being in force and for that purpose may if it things fit, postpone the settlement of the other issues until after that issue has been determined and may deal with the suit in accordance with the decision of that issue. So the under-valuation of the suit property aspect is not under the purview of the Order 14, Rule 2(2). The petitioner in her affidavit has stated that the guideline values is Rs.2,500/- per sq ft and not as Rs.700/- per sq ft. The petitioner contentions has already been rejected by this court and the same has been upheld in CRP also. The suit is ripe for trial and the same is pending for the past ten years before this court. Instead of facing the trial, the petitioners who are in illegal occupation of the suit B schedule property on the fraudulent documents. The petitioners are shy in facing the trial that is why they are filing applications to drag the proceedings. The payment of court fee of additional court fee can be

decided in the trial itself, for which the trial cannot be postponed for ever. The respondent is ready and willing to get along with the case. The petition is devoted of merits and only to drag on the case, which has been successfully dragged by the petitioners for the ten years by way of filing this kind of vexatious applications. Hence the petition is liable to be dismissed.

4. The point for consideration:-

Upon the perusal of the petition, counter and other materials this court has framed the following point for consideration:

“Whether the petition is to be allowed or not”

5. POINTS:-

The petition is filed under Order 7 rule 11(b) CPC and read with Order 14 rule 2(2) CPC to decide the question of under valuation of the suit property as a preliminary issue. The petitioners are the 3rd and 4th defendants in the original suit. The respondent is the plaintiff therein. The original suit was filed for the reliefs of declarations, mandatory injunctions, damages for use and occupation, permanent injunction and also to declare certain sale deeds as null and void. The defendants entered appearance and the case is pending. On earlier occasion, the petitioners filed a similar petition under order 7 rule 11 CPC and the same was dismissed by this court. The petitioners preferred CRP before the Hon’ble High Court of Madras and it was disposed on 03.11.2022. While dismissing the petition, the Hon’ble High court had given liberty to the petitioner to file necessary application before this court for deciding under valuation of the plaint as a preliminary issue and also to file written statement raising objection

regarding court. Accordingly, the petitioners filed the present application.

6. The main contention of the petitioners is that the respondent filed the suit by showing under valuation of the suit property. It is their submission that the respondent has also produced the document relating to copy of downloaded guideline value for the purpose of numbering the plaint. In that guideline value, it is stated that the value of the suit property is Rs.700/- per sq ft. Where as they have filed another downloaded copy of the guideline value wherein the guideline value has been shown as Rs.2000/- per sq ft with effect from 1.4.2012. Once the value of Rs.2000/- per sq ft. is taken into consideration, total value of the suit property will increase and the court fee has to be paid for increased value. Hence the petitioners contend that since the suit is under valued, a preliminary issue may be raised and the plaint may be rejected if the sufficient court fee is not paid.

7. Per contra, the respondent has filed a counter stating that the similar prayer of the petitioners was dismissed by the Hon'ble High Court, and therefore the present petition is not maintainable and barred by limitation. Moreover, Order 14 rule 2(2) CPC is not applicable to the present case. It is also his submission that the guideline value has been properly stated as Rs.700/- per sq ft and the present petition is filed only to delay the proceedings.

8. This court has considered the submissions of the respective sides. As stated above, the present petition is filed under Order 7 Rule 11(b) read with Order 14 Rule 2 (2) CPC. Order 7 Rule 11 deals about the rejection of plaint in certain specified cases. More particularly, Order 7 Rule 11(b) states that where the relief claimed is under valued and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so the

plaint shall be rejected. A reading of Order 7 Rule 11(b) would make it very clear that the first and foremost duty of the court is to decide that the relief claimed by the plaintiff is undervalued or properly valued ? If it comes to the conclusion that if the suit is undervalued, it should give time to the respondent to make out proper court fee. If the court fee is not paid within the time stipulated, the court shall reject the plaint.

9. Such being the import of Order 7 rule 11 CPC, a further reading of the provision of Order 14 rule 2 CPC would expose that the court has power to dispose of the suit on preliminary issue. Moreover Order 14 rule 2(2) makes it very clear that where the issues both of law and of fact arise in the same suit and the court is of the opinion that the case or any part thereof may be disposed of on an issue of law only, it may try the issue first if that issue relates to (a) jurisdiction of the court or (b) a bar to the suit created by any law. Therefore it is further clear that the preliminary issue under Order 14 rule 2(2) CPC can be tried if the issue can be disposed on question of law only.

10. Keeping the same in mind, this court has to decide whether this court could try preliminary issue regarding the under valuation and payment of insufficient court fee in this application? In this context, the Hon'ble High Court, in the case of **Manivannan and Ors Vs. Sivaraj and Ors** 2001(4) CTC 2 (Mad) : 2001(3) LW 618 (Mad) : 2001(3) MLJ 403 (Mad) has held as follows:

"In view of the provisions contained in Order 14 Rule 2 of CPC the court has power to deal only with two kinds of issues as preliminary issue and that too only, if they are issues of law . Hence issues relating to valuation of the suit is not one such, it cannot be treated as preliminary issue."

11. Moreover, in the case of **G. Anusuya Vs. Amirtha Valli** 2008(1) LW 491 (Mad) it has been observed as follows:

" Wherein the defendant comes forward with an application requesting the court to decide an issue relating to valuation of the suit property or the payment of court fee as a preliminary issue, the court may apply the provisions in Order 14 Rule 2, decide consider along with other issue and not as a preliminary issue."

12. A reading of these two judgments would go to show that the payment of court or valuation of the suit property cannot be decided as preliminary issue under Order 14 rule 2(c) CPC.

13. However, the Hon'ble Division Bench of Hon'ble High Court, in the case of **S.N.S.Sukumaran Vs. C. Thangamuthu** 2012(5) CTC 705 : 2012-5-LW.197 has expounded the law on this subject as follows:

" 31. After giving our anxious consideration to the matter and having regard to the law discussed hereinabove, the reference is answered as under :

1. the TNCF and SV Act 1933 enacted by the state legislature on a subject covered by the concurrent list, albeit inconsistent with the provisions of the code of CP and being in compliance with the requirement of article 254 of the constitution of India, having been given assent by the president of India, shall prevail over the provisions of the code of civil procedure.

2. When a defendant comes forward with a case pleaded in the written statement questioning the correctness of the valuation of the suit property and payment of court fee and asks the court, by an application, to decide it first before deciding the suit on merits, then a duty is cast upon the court under

section 12(2) of the State Act to first decide the objection before deciding the suit on merits

3. However before proceeding to decide the objection with regard to valuation and court fee as provided under section 12(2) of the State Act , the court shall prima facie satisfy itself , on perusal of pleadings of the parties and the materials brought on record, that the objection raised by the defendant has substance.

4. Such objection with regard to improper valuation of the suit and insufficiency of court-fee shall be entertained by the court only before the hearing of the suit on merits commences and witnesses are examined. Section 12(2) of the State Act makes it clear that such objection shall be heard and decided before evidence is recorded on the merits of the case.

5. Exercise of right by the defendant as contained in section 12(2) of the Act must be bonafide and not with an ulterior motive of dragging the suit on this issue. Hence the court shall not grant unnecessary adjournment in hearing of such an application and in the event of court finds the defendant is not diligent or co-operating with the court in the disposal of such objection expeditiously, then the court shall proceed with the hearing of the suit on merits and decide all issues, including the one relating to the valuation of the suit and the adequacy or otherwise of court fee , together.

14. A reading of the above judgment would further make it clear that if the petitioners feel that the suit is under valued or plaint is engrossed on deficit court fee, he must file an application under section 12(2) of Tamilnadu Court Fee and Suit Valuation Act, not under Order 14 Rule 2(2) CPC. Only if such an

application is filed, the court can even record evidence and decide the question of valuation made by the plaintiff. In this case, the both the petitioners and the respondent have filed two set of downloaded copy of valuation of property indicating two different rates, while so, the question of under valuation cannot be decided unless further evidence is recorded. As stated supra, under Order 14 rule 2(2) CPC, a preliminary issue comprising mixed question of law and facts cannot be decided since it requires recording of evidence.

15. The petitioners may argue that the quoting wrong provision is not fatal and the court can decide the preliminary issue treating it as if it is filed under Section 12(2) of Tamilnadu Court Fee and Suit Valuation Act. Such a question does not augment well and cannot be sustained. This court is of the view that when the law says that a particular thing must be done in a particularly way, it must be done only in that way. While CPC is a general law, Tamil Nadu Court Fees and Suit Valuation Act is a special law. It is established that special will prevail over the general. Moreover, the question of preliminary issue regarding mixed question of law and facts cannot be raised under Order 14 rule (2) CPC. The provision itself bars the same. Hence this court cannot raise preliminary issue on the basis of the present application.

16. In this back drop, this court holds that the petition shall fail. Accordingly the point is answered.

17. In the result, the petition is dismissed. No cost.

Dictated to the Shorthand writer and typed by her and corrected and pronounced by me in open Court, this the 4th day of July 2025.

Additional District Judge
Chengalpattu.

List of Exhibits and Witnesses on Petitioner's side:

Ex.P1: Copy of downloaded guideline value dated 9.3.2024

List of Exhibits and Witnesses on Respondent's side:

Ex.R1: Survey Numberwise Guideline Values

Additional District Judge
Chengalpattu.

Draft/Fair Order
I.A.No.3/2024 in
O.S.No.180/2014
Dated:04.07.2025
ADJ/CPT
