

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 18TH DAY OF MARCH 2002

: BEFORE :

THE HON'BLE MR.JUSTICE H.S.VEERABHADRALAK

CIVIL REVISION PETITION NOS.1094/00. o/w 1135/2000

BETWEEN :

P.Chandrappa,
S/o P.Thipperudrappa,
Age: major,
Occ: General Merchant,
R/o Sathebennur,
Taluk: Chennagiri.

...PETITIONER
(Common in both
the cases)

(By Sri F.V.Patil, Adv.,)


AND :

1. P.V.Girish,
S/o Veerabhadrappe,
Age-Major,
Occ: Student,
2. P.V.Shivasprasad,
S/o P.Veerabhadrappe,
Age: major,
Occ: Student,

Both are residing at
Santhebennur,
Taluk-Chennagiri.

...RESPONDENTS
(Common in both
the cases)

(By Sri K.V.Vijayashankar, Adv.
for R-1)



These C.R.Ps are filed under Section 115 CPC against the order dated 17.1.2000 passed on I.A.No.13 filed under order 6 Rule 17 CPC and I.A.No.14 filed under order 14 Rule 5 CPC respectively in O.S.No.177/89, on the file of the Civil Judge, (Jr.Dn.) & JMFC, Chennagiri, dismissing I.As.

These C.R.Ps coming on for hearing this day, the Court made the following:-

ORDER

These two Revisions by the defendant No.3, being aggrieved of the orders passed on I.A.Nos.XIII and XIV in O.S.No.177/1989, on the file of the Civil Judge, (Jr.Dn.) & J.M.F.C., Channagiri, dated 17.1.2000 rejecting both the I.As.

2. The suit of the plaintiffs for partition and separate possession against the defendants. The defendant No.3 filed written statement contending that the court has no pecuniary jurisdiction to try this suit. As the court did not frame specific issue regarding jurisdiction of the Court to entertain the suit, defendant No.3 filed I.A.No.13, for amendment to incorporate that the value of the




suit schedule property is more than Rs,5,00,000/-. He also filed another I.A.No.14 for recasting of issues. The learned Civil Judge rejected both the applications. It is this order which is now questioned in the present revision.

3. The learned Counsel for the petitioner Shri F.V.Patil contended that in the written statement filed itself, he has taken a defence that the Court of Civil Judge has no pecuniary jurisdiction to try the suit. Since no specific issues have been framed to that effect, he filed I.A.No.XIII for amendment of the written statement in so far as Paragraph No.6 is concerned to incorporate that the subject matter of the property is more than Rs.5,00,000/-. Therefore contended that that it does not change or alter the nature of the suit or cause of action. Therefore, prayed to set-aside the impugned order by allowing these revisions.

4. Heard. Perused the records.

5. The learned Counsel for the petitioner/defendant No.3 made available the copy of the written statement in which at the end of



paragraph No.6 he has specifically pleaded that the court has no pecuniary jurisdiction to try the suit. When it is pleaded, the Court should have framed an issue regarding pecuniary jurisdiction. Thereby, the Court has erred in not allowing I.A.No.XIII seeking for amendment of paragraph 6 in the written statement by incorporating that the value of the property is more than Rs.5,00,000/-. The amendment sought for in my view does not change the nature or cause of action. Therefore, the amendment sought for deserves to be allowed. Consequently, the Trial Court is also directed to recast the issue regarding pecuniary jurisdiction of the court.

6. Accordingly, both the Revisions are allowed by setting aside the order of the Trial Court passed on I.A.Nos.XIII and XIV. The learned Civil Judge, (Jr.Dn.), Channagiri, is directed to permit the defendants to carry out the amendment as prayed and to dispose of the matter in accordance with law.

Sd/-
Judge

YN.