

(i) Civil Procedure Code, 1908 (V of 1908), Section 152 — Erroneous observations in judgment — Limited relief sought without challenge to operative order — Clarification by Supreme Court — Where the High Court while disposing of a Civil Revision Petition recorded observations regarding the stand of a party and the effect of a previous order which were diametrically opposed to the pleaded position of that party and the actual content of the previous order, the appellant is entitled to relief by way of clarification even without challenging the operative order.

On facts, observations of the High Court in the first impugned order regarding (a) the previous High Court order dated 20.02.2015 in W.P. No. 14279 of 2006 having “recognised the ownership” of the predecessor in title of Respondent No.1 over the suit schedule property, and (b) the claim of Respondent No.1 to the suit schedule property, were *prima facie* erroneous as they assumed that two distinct properties (Sy. No. 104 on the one hand and Sy. Nos. 102 and 103 on the other) were one and the same, despite there having been no adjudication thereon — Observations contrary to the material on record and the consistent pleadings and submissions of the parties — Held to not be construed as a finding on the title, identity or location of the suit schedule property and not to be relied upon by the parties in any of the proceedings to assert their claims. **[Paras 25, 26, 27, 30]**

(ii) Civil Procedure Code, 1908 (V of 1908) — Earlier writ proceedings refraining from determination of title — Effect — Cannot be read as recognition of ownership

In WP No. 14279 of 2006, the High Court had expressly refrained from making any determination of title and directed all parties to approach the civil court of competent jurisdiction for adjudication of right, title, interest and location of the property; the BBMP was directed to delete from its Fiscal Register the names of both Ramdev and R. Vijaykumar and to await the final decision of the civil court; the direction to BBMP regarding Jayamma (predecessor in title of Respondent No. 1) was limited to consideration of her separate application in respect of her distinct property bearing Sy. No. 104, and not to mutate her name as owner of the suit schedule property — Such an order, expressly relegating the parties to the civil court for adjudication of title, cannot, in subsequent proceedings, be characterised as one “recognising ownership” of any party. **[Paras 9, 10, 17, 21, 26]**

(iii) Civil Procedure Code, 1908 (V of 1908), Order VII Rule 11 — Identity of suit property and party’s own pleaded stand — Inverted recording of pleaded stand — Impermissible — High Court could not have proceeded on the premise opposite to the party’s own consistent assertion that its property (Sy. No. 104) was distinct from the suit property (Sy. Nos. 102 and 103); common PID number cannot conflate two distinct properties

Where Respondent No.1, both in its Order VII Rule 11 application and before the High Court in revision, had specifically asserted that it had been wrongly arrayed as defendant since the property owned and possessed by it (Sy. No. 104) was completely distinct from the suit

schedule property (Sy. Nos. 102 and 103) and that it was in no way connected or related thereto, the High Court could not have proceeded on the inverted premise that the said respondent was claiming to be the owner of the suit schedule property — Common PID No. 81-86-1 stated to have been assigned to both Sy. No. 104 and Sy. Nos. 102 and 103 cannot, by itself, conflate two otherwise distinct properties; disputes regarding the concerned property are to be decided by the competent court based on the pleadings and the evidence led by the parties. **[Paras 22, 23, 28, 30]**

JUDGMENT

Augustine George Masih, J. – (16-04-2026) – Leave granted.

Facts : The dispute concerned the title and identity of property near Ulsoor Lake, Bengaluru, in respect of which three groups of parties were involved — the Muniswamappa group (the appellants), M/s Casablanca Estate (Respondent No.1) and the Chettiar group (Respondent Nos. 2 to 11). The appellants claimed title to old Sy. Nos. 88 and 89 / new Sy. Nos. 102 and 103 through their grandfather who had purchased the property in 1901; the Chettiar group asserted ownership of the same property through an auction sale of 1872; Respondent No.1 (M/s Casablanca Estate) claimed Sy. No. 104, asserting that this property bore the same PID No. 81-86-1 as Sy. Nos. 102 and 103, having acquired title by sale deed of 2015 from Jayamma. In WP No. 14279 of 2006, the High Court of Karnataka, by order dated 20.02.2015, expressly refrained from determining title, directed BBMP to delete the names of Ramdev and R. Vijaykumar from the Fiscal Register pending decision of the civil court, and directed BBMP to consider Jayamma’s separate application in respect of Sy. No. 104. In OS No. 437 of 2020 instituted by Respondent No. 2 against the Chettiers, the Muthuswamys, the appellants, Respondent No. 1 and Jayamma seeking partition of Sy. Nos. 102 and 103, Respondent No. 1 (Defendant No. 14 therein) moved an application under Order VII Rule 11 CPC asserting that it owned the distinct property at Sy. No. 104 and had been wrongly impleaded. The City Civil Court rejected the application; the High Court, in CRP No. 131 of 2022, allowed the revision and rejected the plaint, but in doing so recorded observations to the effect that Respondent No. 1 had contended that it was the owner of the *suit schedule property* and that the order dated 20.02.2015 had “recognised the ownership” of Jayamma over the suit schedule property and directed BBMP to mutate her name as owner thereof. The appellants’ application under Section 152 CPC for correction of these observations was dismissed on 22.03.2024. Apprehensive that these observations were being relied upon by Respondent No. 1 in OS No. 26121 of 2022, the appellants approached the Supreme Court by special leave, seeking limited relief of clarification/deletion of the erroneous observations without disturbing the operative order rejecting the plaint. The Supreme Court held that the observations were *prima facie* erroneous, contrary to the consistent pleadings of Respondent No. 1 itself and to the actual content of the order dated 20.02.2015, and clarified that the said observations shall not be construed as a finding on the title, identity or location of the suit schedule property and shall not be relied upon by the parties in any of the proceedings to assert their claims; the disputes regarding the concerned property to be decided by the competent court on the basis of pleadings and evidence.

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