

(1974) 07 AP CK 0015

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 570 of 1973

Allam Venkateswara Reddy

APPELLANT

Vs

Golla Venkatanarayana and Others

RESPONDENT

Date of Decision : 17-07-1974

Acts Referred:

Citation : AIR 1975 AP 122

Hon'ble Judges : Ramachandra Raju, J

Bench : Single Bench

Advocate : Y.G. Krishna Murty, for the Appellant; T. Ramachandra Rao, for the Respondent

Final Decision : Dismissed

Judgement

Ramachandra Raju, J.—The only point for consideration in this Civil Revision Petition is whether in a suit filed for cancellation of a document the court-fee shall be computed on the value for which the document sought to be cancelled was executed or the court-fee shall be computed on the present market value of the property covered by the document sought to be cancelled as on the date of the suit. The lower court in the first instance ordered payment of the court-fee on the basis of the value for which the documents were executed, viz., a sum of Rupees 18,000/-. Subsequently when another Subordinate Judge came to preside over the court, he took up the matter once again and came to the conclusion that for cancellation of the two sale deeds in question the court-fee should be computed on the basis of the present market value of the properties for which the sale deeds were executed. He accordingly directed the petitioner-plaintiff to pay the deficit court-fee. It is assailing that order this revision is filed.

2. On a reading of Section 37 of the Andhra Court-fees and Suits Valuation Act 1956 I think the view taken by the learned Subordinate Judge in ordering the payment of court-fee on the basis of the present market value of the properties covered by the two sale deeds is clearly wrong. Section 37 so far as it is relevant for our purpose may be extracted thus: --

"37. Suits for cancellation of decrees etc.:

(1) In a suit for cancellation of a decree for money or other property having a money value or other document which purports OB operates to create, declare, assign, limit or extinguish, whether in present or to future, any right, title or interest in money, movable or immovable property, fee shall be computed on the value of the subject-matter of the suit, and such value shall be deemed to be-

(a) if the whole decree or other document is sought to be cancelled, the amount or value of the property for which the decree was passed or other document was executed;

(b)

(2)"

3. Section 37(1) contemplated two kinds of suits, viz. suits for cancellation of decrees, whether they are for money or for property having a money value and suits for cancellation of documents creating or extinguishing rights whether in money, movable or immovable property. It is stated therein that for the purpose of payment of court-fee in the suit the fee shall be computed on the basis of the value of the subject-matter of the suit and that such value shall be deemed to be the one indicated in Clause (a) of Section 37 (1) wherein it is mentioned that if the whole decree or other document is sought to be cancelled, the amount or value of the property for which the decree was passed or other document was executed shall be deemed to be the value for computation of court-fee. From this it is very clear that for cancellation of a document regarding a property the value shall be deemed to be the amount for which the document sought to be cancelled was executed with regard to the property. In the present case, the two sale deeds in question were executed for a sum of Rs. 18,000/-. Therefore, the court-fee has to be paid on that amount and not on the present market value of the properties which are the subject-matter of the two Bale deeds. A reading of Section 37 does not show that the court-fee has to be computed on the basis of the present market value of the property which is the subject-matter of the document sought to be cancelled. Therefore, the civil revision petition is allowed and the order of the lower court directing the petitioner to value the suit on the basis of the present market value of the properties for which the documents were executed and pay court-fee on that basis is set aside. No costs.