

(1998) 09 DEL CK 0031

In the Delhi High Court

Case No : I.A. No. 8145 of 1997 and Suit No. 1852 of 1987

Anil Goel

APPELLANT

Vs

Sardari Lal

RESPONDENT

Date of Decision : 16-09-1998

Acts Referred:

Citation : (1998) 7 AD 325 : (1998) 75 DLT 641

Hon'ble Judges : S.K. Mahajan, J

Bench : Single Bench

Advocate : Mr. D.R. Gupta, for the Appellant; Mr. J.K. Seth and Ms. Shalini Kapur, for the Respondent

Judgement

S.K. Mahajan, J.—The plaintiff has filed this suit for declaration and injunction. The declaration sought by the plaintiff was that by virtue of an agreement dated 30th March, 1987 no right in favor of defendant No. 1 has been created in plot No. B-30, Ram Prashtha Colony, Maharajpur, Uttar Pradesh, measuring 555.50 sq. yds. Injunction was also claimed in respect of the same plot of land in District Ghaziabad. By judgment dated 3rd May, 1995 this Court held that as the property in suit for which the declaration was claimed was beyond the territorial jurisdiction of this Court, the Court did not have the jurisdiction to decide the matter and the plaint was, accordingly, returned for presentation in proper Court. Against the judgment of the learned Single Judge, the plaintiff filed an appeal before the Division Bench and on 26th May, 1995 the plaintiff after some arguments made a statement before the Court that he would delete the relief sought for in respect of the property in Ghaziabad so as to remove the hurdle created by Section 16 of the Code of Civil Procedure. In view of the statement of learned Counsel for the plaintiff, the appeal was disposed of permitting the plaintiff to make a proper application for amendment of the plaint consistent with the statement made before the Court. Subsequent to the passing of this order, the plaintiff filed an amended plaint in this Court on 18th July, 1996. The paragraph which is relevant for deciding this application in respect of the

jurisdiction was in the following terms :

"That the plaintiff has valued the present suit for the various reliefs claimed hereinafter for purposes of Court fee and jurisdiction as follows :

(a) The suit has been valued for purposes of Court fee and jurisdiction for the relief of permanent injunction at Rs. 200 and a Court fee of Rs. 20 has been paid.

(b) That the suit for the relief of claiming damages is valued for the purpose of Court fee and jurisdiction at Rs. 75,000/- and a Court fee of Rs. 3,076 has been paid.

2. A perusal of the amended plaint shows that the plaintiff had valued the suit for purposes of the relief of injunction at Rs. 200 and for the relief of damages, the suit was valued at Rs. 75,000. The valuation so made by the plaintiff clearly shows that this Court did not have the pecuniary jurisdiction to try this suit as this Court has the jurisdiction to try suits of the jurisdictional value of more than Rs. 5 lacs. Faced with this situation, the plaintiff has made the present application under Order 6, Rule 177, CPC for amendment of the plaint. By the proposed amendment the plaintiff seeks to value the suit for purposes of injunction at Rs. 5,05,000. The purpose of making the application is to bring the suit within the pecuniary jurisdiction of this Court.

3. Reply to this application has been filed by the defendants and a preliminary objection to the maintainability of the application has been taken to the effect that this Court having no jurisdiction to try the suit, no application for amendment of the plaint can be allowed so as to bring the suit within the jurisdiction of this Court.

4. I have heard learned Counsel for the parties. In Lok Kalyan Samiti Vs. Jagdish Prakash Saini and Others, , this Court was concerned with a similar situation and it was held that the amendment of the plaint to raise the valuation of the suit for purposes of jurisdiction and Court fee so as to bring the suit within the jurisdiction of the Court was likely to defeat the provisions of the Delhi High Court Amendment Act, 1991 and the application for amendment was, Therefore, dismissed.

5. I am in agreement with the opinion expressed by Hon"ble the Single Judge in Lok Kalyan Samiti Vs. Jagdish Prakash Saini & Ors. (supra) that if a Court does not have jurisdiction to try the suit, no amendment can be allowed to bring the suit within the jurisdiction of the Court. The Court having no jurisdiction in the matter cannot pass orders so as to assume jurisdiction and the plaint in such a case has to be returned for presentation in proper Court. In this view of the matter, the application is without any merits and the same is, accordingly, dismissed.

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6. The application for amendment having been dismissed and the jurisdiction

value of the suit being only Rs. 75,000, this, Court does not have be pecuniary jurisdiction to try this suit. The plaint is, accordingly returned to the plaintiff for presentation in proper Court.