

(1978) 03 GAU CK 0003
In the Gauhati High Court

Ayekpam Biramangol Singh

APPELLANT

Vs

State Bank of India and Another

RESPONDENT

Date of Decision : 08-03-1978

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115, 151
SUITS VALUATION ACT, 1887 — Section 3, 4, 7, 8, 9

Citation : AIR 1978 Guw 27

Hon'ble Judges : Baharul Islam, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Baharul Islam, J.—This application u/s 115 of the Civil P.C. is by the plaintiff and is directed against the order dated 16-8-1976 passed by the Second Subordinate Judge, Manipur, directing him to value his suit and pay Court fee at an amount much higher than at what he valued it.

2. The plaintiffs suit was "for declaration that the decree dated 26-2-1973 in O.S. No. 4 of 1973 of the Subordinate Judge (II). is illegal, void and not binding on the plaintiff," and "for a permanent injunction restraining the defendant No. 1 (O.P. No. 1 herein) from proceeding with the execution of that decree." The plaintiff-petitioner valued his suit at rupees 4,200/- both for the Court's jurisdiction and the Court-fee u/s 7(iv)(c) (wrongly typed as 7(v) (c) in the plaint) of the Court-fees Act and paid ad valorem court-fee on that amount.

3. The brief facts material for the purpose of the disposal of the controversy before us may be stated as follows:

Opposite Party No. 1 (State Bank of India) brought Original Suit No. 4 of 1973 in the Court of the Second Subordinate Judge, Manipur, against the Opposite Party No. 2, M/s Medico Drug House, Paona Bazar, Imphal, as defendant No. 2 and the present petitioner as defendant No. 1, and got a decree for Rs. 32,065.45 p. with costs. According to the petitioner the decree was obtained by Opposite Party No.

1 by collusion with the petitioner's lawyer, Shri K.P. Dey. He brought this suit for the reliefs mentioned above.

4. A plea, inter alia, was taken in his written statement by Opposite Party No. 1 that "the suit is grossly undervalued" and that it ought to have been valued at Rs. 33,670.70 p. both for the purpose of Court's jurisdiction and Court-fee.

5. The Court framed a preliminary issue, Issue No. 2, in the following terms:

2. Is not the suit correctly valued? If not, what is its correct value?

6. The learned trial Court field,-

Looking into the substance and the nature of the claim it is clear that the claim of the plaintiff is in substance one for setting aside the decree even though he carefully avoided to mention such a word like "setting aside the decree" in his reliefs cast in the plaint. Though the plaintiff has fixed the value at Rs. 4,200/- u/s 7(iv)(c), he has not disclosed any basis for calculation of that value.

According to the learned Judge the suit ought to have been valued at Rs. 29,670.70 both for the purpose of Court's jurisdiction and Court fee. He arrived at the amount of rupees 29,670.70p, thus: the impugned decree was for Rs. 32,069.45p. plus the cost of the suit, Rs. 1,601.25p. minus rupees 4,000/- which the petitioner alleged to have paid. He directed the petitioner by his impugned order to value the suit at Rs. 29,670.70 p. both for jurisdiction and court fee as stated above.

7. The agreed position before us is that the present suit is "to obtain a declaratory decree with consequential relief" and that it has been correctly valued u/s 7(iv)(c) of the Court Fees Act (hereinafter "the Act") read with Section 8 of the Suits Valuation Act. But the controversy before us is that the amount at which the suit has been valued, namely, Rs. 4,200/-, is grossly inadequate, as held by the learned trial Court.

8. Shri A. Sarma, learned Counsel for the petitioner submits that in a suit governed by Section 7(iv)(c) of the Act, the plaintiff is at liberty to value the suit at any amount.

The relevant portions of Section 7 of the Act read:

Section 7. Computation of fees payable in certain suits:

The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:

(i) For money. In suit for money (including suits for damages or compensation, or arrears of maintenance of annuities, or of other sums payable periodically) -- according to the amount claimed :

(ii) For maintenance and annuities. In suit for maintenance and annuities or other sums payable periodically-according to the value of the subject matter of

the suit, and such value shall be deemed to be ten times the amount claimed to be payable for one year;

(iii) For movable property having a market value. In suits for movable property other than money where the subject matter has a market value-according to such value at the date of presenting plaint:

(iv) In suits-

(a) For movable property of no market value. For movable property where the subject-matter has no market value, as, for instance, in the case of document relating to title.

(b) To enforce a right to share in joint family property. To enforce the right to share in any property on the ground that it is joint family property;

(c) For a declaratory decree and consequential relief. To obtain a declaratory decree or order, where a consequential relief is prayed,

(d) For an injunction. To obtain an injunction;

(e) For easements. For a right to some benefit (not herein otherwise provided for) to arise out of land; and

(f) For accounts: For accounts-according to the amount at which the relief sought is valued in the plaint or memorandum of appeal.

In all suits the plaintiff shall state the amount at which he values the relief sought.

A perusal of Sub-sections (i), (ii) and (iii) shows that in the suits covered by these clauses the reliefs claimed can be put in definite sums of money and the amounts of court-fees payable in those suits are therefore respectively, on (i) "the amount claimed," (ii) "the value of the subject-matter of the suit" and (iii) the market value of the subject of the suit.

A perusal of Clauses (a) to (f) of Sub-Section (iv) of Section 7, on the other hand, shows that in the suits covered by these provisions the reliefs claimed cannot be put at any definite sum of money; and so in all such suits the plaintiff has been given the liberty to state the amount at which he values the reliefs sought. In our opinion, therefore, the plaintiff can value a suit covered by Section 7(iv)(c) of the Act at any amount.

9. Section 7(iv)(b) of the Act fell for consideration of their Lordships of the Supreme Court in S.Rm.Ar.S.Sp. Sathappa Chettiar Vs. S.Rm.Ar.Rm. Ramanathan Chettiar, in which it has been held:

Section 7, Sub-section (iv) (b) deals with suits to enforce the right to share in any property on the ground that it is Joint family property and the amount of fees payable on plaints in such suits is "according to the amount at which the relief sought is valued in the plaint or memorandum of appeal." Section 7 further

provides that in all suits falling u/s 7(iv) the plaintiff shall state the amount at which the Value of the relief is sought. If the scheme laid down for the computation of fees payable in suits covered by the several sub-sections of Section 7 is considered, it would be clear that, in respect of suits falling under Sub-section (iv), a departure has been made and liberty has been given to the plaintiff to value his claim for the purposes of court-fees. The theoretical basis of this provision appears to be that in cases in which the plaintiff is given the option to value his claim, it is really difficult to value the claim with any precision or definiteness. Take for instance the claim for partition where the plaintiff seeks to enforce his right to share in any property on the ground that it is joint family property. The basis of the claim is that the property in respect of which a share is claimed is joint family property. In other words, it is property in which the plaintiff has an undivided share. What the plaintiff purports to do by making a claim for partition is to ask the court to give him certain specified properties separately and absolutely on his own account for his share in lieu of his undivided share in the whole property. Now it would be clear that the conversion of the plaintiff's alleged undivided share in the joint family property into his separate share cannot be easily valued in terms of rupees with any precision or definite-ness. That is why legislature has left it to the option of the plaintiff to value his claim for the payment of court-fees, It really means that in suits falling u/s 7(iv)(b) the amount stated by the plaintiff as the value of his claim for partition has ordinarily to be accepted by the court in computing the court-fees payable in respect of the said relief.

Their Lordships, however, kept open the question that now falls for our consideration with the following observation:

In the circumstances of this case it is unnecessary to consider whether, under the provisions of this section, the plaintiff has been given an absolute right or option to place any valuation whatever on his relief.

The ratio of the above decision of the Supreme Court interpreting Section 7(iv) (b) of the Act, in our opinion, equally holds good in the interpretation of Section 7(iv)(c). The same view was taken by a Single Judge of this Court in the case of Batuk Chandra v. Kirti Ram Das reported in AIR 1972 Gau 69.

10. The view we have taken of Section 7(iv)(c) of the Court-fees Act gets support from AIR 1918 PC 135 and Arunachalam Chetty, Nagalingam Chetty by his mother and next friend Parvathammal Vs. Rangasamy Pillai,

In AIR 1918 PC 135 (supra) their Lordships of the Privy Council approving the view of the Bombay High Court held, "where a plaintiff sues for a declaratory decree and asks for consequential relief, and puts his own valuation upon that consequential relief, then for the purposes of court-fee and also for the purposes of jurisdiction, it is the value that the plaintiff puts upon the plaint that determines both."

A Full Bench of the Madras High Court reported in Arunachalam Chetty,

Nagalingam Chetty by his mother and next friend Parvathammal Vs. Rangasamy Pillai, held-

A suit for a declaration that an instrument of mortgage or sale executed by the plaintiff or a decree passed against the plaintiff for a debt is not binding on him, is not a mere declaratory suit, but is one with consequential relief falling u/s 7(iv)(c), Court-fees Act, and the Court is bound to accept the valuation put by the plaintiff on which ad valorem fee should be paid.

11. Shri Imo Singh, learned Advocate General, Manipur, who has appeared in pursuance of a notice issued by us concedes that in a suit covered by Section 7(iv)(c) of the Court-fees Act, the plaintiff is at liberty to put his own value; but submits that he (plaintiff) cannot put an arbitrarily low value; he submits that when the suit is for declaration that a decree is void, he must put the value at the amount of the impugned decree. In support of his contention, he takes strong reliance on AIR 1939 Nag 50 (FB) and Mt. Rupia Vs. Bhatu Mahton and Others, The Full Bench of the Nagpur High Court in AIR 1939 Nag 50 (FB) (supra) held:

The principle that where the subject-matter is so related to things which have a real money value that the relief asked for will affect these then the value of the suit for the purpose of jurisdiction is to be taken as the market value of the property affected, cannot be adopted as the test for valuing suits of the type coming u/s 7(iv)(c), because it is not the value of the thing affected that settles the value of the relief sought. It is the value of the relief sought which has to be determined. Clearly, if it is impossible to state what that value is, the value must be a notional one settled by somebody's caprice, and the Act, in our opinion, enables the plaintiff to fix it, but it does not, in our opinion, follow that in a case where though the value is uncertain it is manifestly great, the plaintiff is at liberty, not merely to fix what value he likes but to maintain that value when a Court says it is unreasonable. We wish it to be clearly understood that a Court should not endeavour to correct the plaintiff's valuation except in a clear case where the disparity is so great as to show that the plaintiff has not endeavoured to fix a fair value at all but has simply set down a figure which is unreasonable and bears no relation to the value of the right litigated. In our opinion on the true construction of the Act the matter can be expressed as follows:

*** In a case u/s 7(iv)(c) though the plaintiff values it at a certain figure the Court can refuse to accept that figure. The difference between the two cases lies in this: that in the first case the Court has something definite to go on, whereas in a suit to obtain a declaration it is difficult to determine what the true value of the relief sought is. Therefore a Court in such a case, even where objection is taken should not lightly disturb the plaintiff's valuation and should only do so if it is apparent that the valuation could not have been given by any reasonable man as the valuation of the relief sought. In other words, unless the relief sought can be given some sort of a value and unless that value which any reasonable man would give is altogether disparate from the value that the plaintiff has given the

plaintiff's valuation stands. In other words we do not understand Section 7(iv)(c) to demand a construction which would be appropriate if the relevant part of the Act above quoted ended with the words "and such value shall be binding on the Court." There is nothing in the Court-fees Act which shows that in this type of case the power which the Court is given by the CPC to challenge an undervaluation is taken away. The only difficulty is the practical difficulty of saying what is an undervalue. In many cases, it would be impossible to say what is an undervalue for the relief sought might be of such a nature that no one could say with any definiteness whether the value is great or small. But, although there are such cases, and in such cases the plaintiff's value must be accepted, there are other cases we apprehend (otherwise the question put is meaningless). in which it would be possible to say that the value assigned is unreasonable though it might be impossible to say with precision what the true value is, for a value can be great or a value can be small without one being able to say with certainty exactly how many rupees are involved. In such a case, if the Court thought that the value assigned was unreasonable we see no reason why it could not treat that unreasonable valuation as an undervaluation and exercise its powers under Order 7, Rule 11.

The Full Bench decision of the Patna High Court in *Mt. Rupia Vs. Bhatu Mahton and Others*, held:

In a suit to obtain a declaratory decree with consequential relief the Court is empowered under the law to revise the valuation put by the plaintiff and if on such revision it is of opinion that the valuation is insufficient or arbitrary, it has jurisdiction to fix a right value.

What fell for decision of the Nagpur High Court in AIR 1939 Nag 50 (FB) (supra) was the interpretation of Order 7, Rule 11, Civil P.C. and of the Patna High Court in *Mt. Rupia Vs. Bhatu Mahton and Others*, was the distinction between Section 7(iv)(c) and Article 17(iii) of Sch. II of the Court-fees Act.

Further the ratio of the Nagpur and Patna decisions (supra) appears to be at variance with that of the decision reported in *S.Rm.Ar.S.Sp. Sathappa Chettiar Vs. S.Rm.Ar.Rm. Ramanathan Chettiar*, and as such the said two Full Bench decisions cannot be said to have laid down the correct law.

In a suit u/s 7(iv)(c) of the Court-fees Act, the plaintiff is at liberty to value his suit at an amount at which he values the relief sought. The section has not said that he shall value the suit at a "reasonable" amount, "but shall not be valued at an arbitrarily low value." The principles of interpretation of statutes do not permit reading these expressions into the section. The amount put by him is bound to be arbitrary inasmuch as no definite sum can be put as stated earlier.

12. In our opinion, the learned Court below put an erroneous interpretation to Section 7(iv)(c) of the Act, and thereby exercised his jurisdiction with material irregularity in directing the plaintiff to value his suit at Rs. 29,670.70 which was calculated and arrived at by it. We therefore set aside the impugned order of the

learned trial Court. The application is allowed. The rule is made absolute. We, however, make no order as to costs.

K. Lahiri, J.

13. Notwithstanding a final opinion expressed on the issue by my learned brother, Islam, J. in *Batuk Chandra v. Kirti Ram Das* reported in AIR 1972 Gauhati 69, the learned Judge had considered that the question should be referred to a larger Bench when the same issue came up for consideration before his Lordship. This is manifestation of judicial wisdom.

14. Let me fashion the question to be answered:

Whether the plaintiff has been given an absolute right or option as to the valuation of relief for the purpose of court-fee u/s 7(iv)(c) of the Court-fees Act, 1870? or

Whether the Court has power to interfere in the valuation of relief put by the plaintiff for the purpose of court-fee u/s 7(iv)(c)?

15. A cleavage of opinion of different Courts of India exists on the question. The issue came up for determination before the Supreme Court in *S.Rm.Ar.S.Sp. Sathappa Chettiar Vs. S.Rm.Ar.Rm. Ramanathan Chettiar*, However, in my opinion, the question was left open by the Supreme Court, as the determination of the question was considered to be unnecessary, in that case.

16. Facts leading up to the reference, the points decided by the trial court, the contentions raised by the parties and the reasons for arriving at the conclusion have been succinctly dealt with by Islam, J. in his judgment which has enabled me to scrutinise the matter carefully. I entirely agree with the conclusions reached but, have made endeavour to arrive at the same conclusion by adopting different methods.

17. Section 7 of the Act provides for computation of court-fee in respect of suits mentioned in the paragraphs contained therein. An analysis of the paragraphs shows that 3 modes of valuation of the subject-matter of a suit are contemplated, namely, (1) by valuing the subject-matter according to its market rate [paras. (iii), (v) (d), (v) (e) etc.]; (2) by attributing to the subject-matter an artificial value based on specified rules of calculation [paras. (v) (a) (b) and (c)]; and (3) by requiring the plaintiff himself to value the relief he seeks [para. (iv)]. In the instant case we are concerned with the last mode. Para. (iv) has six clauses, clauses (a) to (f) and each of the clauses deals with a particular type or class of suit but, in spite of difference in the nature of the suit contemplated under Clauses (a) to (f) of para. (iv) the computation in respect of them is set forth at the end of the paragraph. The Sub-section enjoins the plaintiff to "state the amount at which he values the relief sought for" and the amount of court-fee payable is to be computed according to the amount at which the relief is valued in the plaint. Therefore, the sub-section requires the plaintiff to value the relief he seeks.

18. Another position need be clarified before proceeding further that the matter comes from the State of Manipur and no amendment of the section has been made, as represented by the counsel for the petitioner and the learned Advocate General, Manipur. They also confirm that no rules have been framed u/s 9 of the Suits Valuation Act, 1887. As such, the point which we propose to dispose of is as to whether in the absence of any Rules framed u/s 9 of the Suits Valuation Act and in the absence of any amendment of the provisions in the Court-fees Act, the Court has power to interfere in the plaintiff's valuation of relief for the purpose of court-fee u/s 7(iv) of the Court-fees Act.

19. The learned Advocate General, Manipur has contended that though u/s 7(iv) of "the Act" it is for the plaintiff to value the relief, he has no absolute and unfettered right to put any valuation he likes and the Court may, in exercise of its powers conferred in Order 7, Rule 11(b) of the C.P.C. or, at any rate, in exercise of its inherent power u/s 151 of "the Code" has the power to reconsider it, taking into consideration the averments made in the plaint, the relief sought or which may ultimately be granted to the plaintiff and may require the plaintiff to value the relief and direct payment of the deficit court-fee.

20. Order 7, Rule 11(b) with which we are concerned reads as follows:

"R. 11. The plaint shall be rejected in the following cases.

(a) ** ** *

(b) where the relief claimed is undervalued 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;

(c) & (d) ** ** *" Order 7, Rule 11(b) of the Code refers to the general power of the Court to require the plaintiff to correct the valuation "where the relief claimed is undervalued". It is, however, clear that the powers conferred under Rule 11 are general powers and can be taken away by a statutory provision. The question is as to whether the general power conferred under Order 7, Rule 11(b) has been taken away by Section 7(iv) of "the Act". Section 151 of the Code is also subject to the statutory provisions contained in Section 7(iv) of "the Act". Therefore, the answer to the main question would depend entirely on a true and correct interpretation of Section 7(iv) of "the Act".

21. Therefore, let me consider the scope and effect of Section 7(iv) of "the Act". A plain reading of the section shows that it requires the plaintiff, in respect of the suits mentioned in the clauses, to state the amount at which he "values the relief sought for" and the amount of court-fee payable to be computed according to the said amount at which "the relief sought is valued" in the plaint. The paragraph requires the plaintiff himself to value the relief. Now, the question is as to whether the plaintiff has the right to place any valuation he likes ? Does the paragraph impose any restriction or precondition in regard to the valuation to be put by the plaintiff? I do not find any restriction or condition put by the

legislature. As such, it would not be proper for a Court to introduce restrictions or conditions into the section. The language of the section is clear and unambiguous. It gives an unrestricted choice to the plaintiff. Under these circumstances, it is not permissible for a court to say that the relief was incorrect or undervalued or to correct the said valuation, invoking the general powers contained in Order 7, Rule 11(b) or u/s 151 of "the Code." When Section 7(iv) gives an unfettered option to the plaintiff to put any valuation and does not place any restriction or condition relating to the suits mentioned in the paragraph, in effect it has taken away the general powers of the Court under Order 7, Rule 11(b) and Section 151 of the Code. The general power and the inherent powers stood modified by the special statutory provision in Section 7(iv) of "the Act". As such, the Court has no power to interfere with the plaintiff's valuation.

22. The suit in question clearly falls within the ambit of Section 7(iv)(c) of the Act is the common case of the parties. Counsel for the defendant and the learned Advocate General Manipur, appearing on behalf of the State have conceded and did not dispute the position.

23. Therefore, let me proceed . to mull over the issue from another perspective. The nature of the suits mentioned in Clauses (a) to (f) of paragraph (iv) of Section 7 of "the Act" are such that it is not capable of being valued in money terms on any precise principle in respect of the relief in each of the suits. That appears to be the patent or obvious reason for the legislature to leave it to the plaintiff to put any valuation he likes on the relief he seeks in the suit.

24. It was argued at the bar by the learned Advocate General that the view aforesaid would permit the plaintiff to place any arbitrary, capricious and fanciful value on the relief. But the nature of the suits contemplated under the sub-section are such that no precise value can be put on the relief sought and that was the obvious reason as to why no definite standard could be prescribed by the legislature. When from the nature of the suit no precise valuation could be placed by the legislature, can it be said that there exists any definite standard or principle by which the valuation can be gauged? By what standard it would be determined that the relief has been undervalued or the valuation is arbitrary, capricious and fanciful?

25. It is not possible unless the section itself is rewritten or is read along" with some expressions super-added to it. As such, it is plain and clear that the Court has no power to interfere in the valuation of relief put by the plaintiff.

26. If we peruse Section 11 of the Court-fees Act, we find that so far as the suits for mesne profits or accounts are concerned the legislature has ensured to safeguard the revenue so that the plaintiff does not get away without payment of adequate court-fee. Therefore, in the Act itself there are provisions enabling the court to ascertain proper court-fee and to compel a party to pay up the deficit court-fee. It is just an instance to show that in respect of some classes of suits the legislature empowered the Court but, however, in respect of the types of

suits covered by Section 7(iv) of "the Act", the legislature did not think it fit to take any such precaution as envisaged u/s 11 of "the Act".

27. The learned Advocate General, Manipur, has very rightly pointed out that the Supreme Court in S.Rm.Ar.S.Sp. Sathappa Chettiar Vs. S.Rm.Ar.Rm. Ramanathan Chettiar, has observed in para. 14 that "It really means that in suits falling u/s 7(iv)(b) the amount stated by the plaintiff as the value of his claim for partition has ordinarily to be accepted by the Court in computing the court-fee payable in respect of the said relief".

28. According to the learned Advocate General, the use of the word "ordinarily", as underscored by me, is a pointer that the Court is not bound to accept the same if it finds the valuation to be arbitrary or fanciful. This argument overlooks a very relevant and pertinent observation of their Lordships to wit: "if the scheme laid down for the computation of fees payable in suits covered by several sub-sections of Section 7 is considered, it would be clear that, in respect of suits falling under Sub-section (iv), a departure has been made and liberty has been given to the plaintiff to value his claim for the purposes of court-fees. The theoretical basis of this provision appears to be that in cases in which the plaintiff is given the option to value his claim, it is really difficult" to value the claim with any precision or definiteness". The aforesaid observation clearly supports our views that the reason of the theoretical basis of the provision was the difficulty encountered by the legislature to value the claim with any precision or definiteness in view of the nature of the claim. Under these circumstances, as stated already, it is hardly possible for any other person or authority to determine a precise or definite value of a claim. In any view of the matter although the word "ordinarily" has been used by their Lordships, the question as to whether the plaintiff has been given an absolute right or an option to place any valuation was left out of consideration. The relevant observation has been quoted by my learned brother in para. 9 of his judgment.

29. Once it is accepted that the valuation is left to the option of the plaintiff it is difficult to value the relief with any precision or definiteness and there is no escape but to conclude that there can be no definite or precise standard by which the valuation put by the plaintiff can be evaluated and characterised as arbitrary, fanciful or capricious or improper. S.Rm.Ar.S.Sp. Sathappa Chettiar Vs. S.Rm.Ar.Rm. Ramanathan Chettiar, is thus of no assistance to the learned Advocate General, and, in my opinion, supports the view that we have taken.

30. In my opinion, the word "ordinarily" has been expressed by their Lordships to indicate that in the absence of any amendment of "the Act" or framing of Rules under the Suits Valuation Act, 1887, the Court has no power to interfere in the valuation of relief put by the plaintiff for the purpose of court-fee u/s 7(iv)(c) of "the Act".

31. Valuation for the purpose of court-fee u/s 7(iv) is to a large extent mixed up with the question of valuation of suits coming under various clauses of the sub-

section for the purpose of determination of jurisdiction under the provisions of the Suits Valuation Act, 1887. Section 3 thereof gives powers to the State Government to make Rules for determining the value of land for jurisdictional purposes in respect of certain suits mentioned therein. Section 4 provides that the value for the purpose of jurisdiction of suits coming u/s 7(iv) of "the Act" shall not exceed the limits indicated by the Rules made by the State Government u/s 3 of "the Act", where the suits relate to land or interest in land. These sections would be attracted only when the suits fall u/s 7(iv) of "the Act" and relate to land or an interest in land. Directly we are concerned with these two sections. However, Section 8 of the Suits Valuation Act provides that the valuation of the suits shall be the same for the purposes of court-fee as well as for jurisdiction. Section 9 empowers the High Courts to make Rules concerning the valuation of the suits mentioned in the section -and the subject-matter of which is not capable of being satisfactorily valued for the purposes of the Court-fees Act and the Suits Valuation Act. The effect of Section 8 of the Suits Valuation Act vis-avis Section 7(iv) of "the Act" has been considered by the Supreme Court in *S.Rm.Ar.S.Sp. Sathappa Chettiar Vs. S.Rm.Ar.Rm. Ramanathan Chettiar*, vide para. 15, wherein it has been observed as follows :

There can be little doubt that the effect of the provisions of Section 8 is to make the value for the purpose of jurisdiction dependent upon the value as determinable for computation of court-fees and that is natural enough. The computation of court-fees in suits falling u/s 7(iv) of the Act depends upon the valuation that the plaintiff makes in respect of his claim. Once the plaintiff exercises his option and values his claim for the purpose of court-fees, that determines the value for jurisdiction. The value for court-fees and the value for jurisdiction must no doubt be the same in such cases; but it is the value for court-fees stated by the plaintiff that is of primary importance. It is from this value that the value for jurisdiction must be determined. The result is that it is the amount at which the plaintiff has valued the relief sought for the purposes of court-fees that determines the value for jurisdiction in the suit and not vice versa.

32. The effect of Section 8 of the Suits Valuation Act is "to make the value for the purpose of jurisdiction dependent upon the value as determinable for computation of court-fees", and "the computation of court-fees in suits falling u/s 7(iv) of the Court-fees Act depends upon the valuation that the plaintiff makes in respect of his case" and "once the plaintiff exercises his option and values his claim for the purpose of court-fees, that determines the value for jurisdiction" and "not vice-versa". Therefore, the value for the purpose of court-fee u/s 7(iv) of the Act should be fixed first and thereafter by virtue of Section 8 of the Suits Valuation Act the same value would be the value for the purpose of jurisdiction. However, if Rules are made by the High Courts the value for the purpose of court-fees u/s 7(iv) of "the Act" will be made according to the said Rules. It is indubitable that the High Court has not framed any Rules u/s 9 of the Suits Valuation Act and, as such, the question of computation of valuation of the court-fees u/s 7(iv) of "the Act" cannot be questioned in the absence of any rules

framed by the High Court. It is worthwhile to note that in view of divergent views expressed in different High Courts as to the power of the Court to interfere in the valuation put by the plaintiff u/s 7(iv) of "the Act", amendments have been made by different State legislatures providing the court with powers to question the correctness of the valuation put in respect of the suit covered by Section 7(iv)(c) of "the Act". It may also be stated here that many High Courts have framed Rules u/s 9 of the Suits Valuation Act. The learned Advocate General concedes that our High Court has not framed any Rules u/s 9 of the Suits Valuation Act, 1887, nor is there any amendment of Section 7 of the Court-fees Act made by the State of Manipur.

33. In view of the foregoing discussions, I entirely agree with the conclusion arrived at by my learned brother and hold that in the absence of any Rules framed u/s 9 of the Suits Valuation Act and any amendment made in the Court-fees Act, the plaintiff has an absolute right or option to put any valuation of relief for the purpose of court-fee u/s 7(iv)(c) and the Court has no power to interfere in the valuation of relief put by the plaintiff for the purpose of court-fee u/s 7(iv)(c) of the Act.

34. The view we have taken finds support in the following decisions: AIR 1953 Bom 382; AIR 1958. Bom 310; AIR 1959 Bom 517 ; AIR 1969 Bom 66 ; AIR 1930 Cal 473; AIR 1934 Cal 448 (FB) (Mookherjee J., who delivered the main judgment confirming the view expressed in AIR 1930 Cal 473; AIR 1971 P&H 86 ; AIR 1963 Him Pra 9; AIR 1941 Lah 97 (FB); AIR 1941 Lah 284 and AIR 1941 Lah 307; AIR 1946 Lah 94 (FB); AIR 1941 Lah 1; AIR 1949 Lah 116 (FB) ; AIR 1952 Punj 335 (FB) ; AIR 1961 Punj 426; AIR 1967 P&H 309 ; (1913) 18 Ind Cas 363 (Mad) (FB) ; AIR 1941 Mad 91; AIR 1959 Mys 167 ; AIR 1941 Rang 322 (FB); AIR 1955 Hyd 23 (FB) and AIR 1972 Gau 69 ." It is undoubtedly true that the Allahabad High Court and some of the decisions of the Calcutta, Patna, Orissa and Oudh High Court have expressed a different view. While considering the decisions expressing the other side of the picture, I have noted that the points considered by us were neither agitated nor taken into consideration. Further in Uttar Pradesh and West Bengal amendments have been made in "the Act" empowering the Court to revise and determine the correct valuation, if in the Court's opinion the subject-matter of the suit is wrongly valued. 35. The learned Advocate General has particularly referred to the decision reported in AIR 1939 Nag 50 (FB) and Mt. Rupia Vs. Bhatu Mahton and Others, in support of his contention. On a perusal of the Nagpur decision, I find that the entire decision was arrived at on the assumption that the provisions of Order 7, Rule 11(b) of the C.P.C. are applicable and that the valuation put by the plaintiff was arbitrary and unreasonable. The question was answered on the assumption of the aforesaid propositions. With all respect I express that there is no indication in the judgment as to how the suits of the types mentioned in Section 7(iv) of the Act can be characterised arbitrary or capricious when there is no principle for the determination of correct and precise valuation of the relief. The said decision has not considered the points considered by us. With all respect I am unable to

persuade myself to accept the decision expressed by the Full Bench.

36. In Mt. Rupia Vs. Bhatu Mahton and Others, the Full Bench merely considered earlier decisions of the said High Court and arrived at the conclusion. The decision also did not consider and answer the question how was it possible to characterise the plaintiff's valuation in the absence of any principle for arriving at a precise and correct valuation of the relief. The Bench, in my opinion, had not had the opportunity of considering the question from the view points we have looked at. as they were not urged. For the reasons set forth I am unable to accept the opinion expressed in the decision.

37. In the result, I entirely agree with Islam, J. that the impugned order of the trial Court directing the plaintiff to value his suit at Rs. 29 670 70 P. is liable to be set aside, the Rule be made absolute and in the facts and circumstances of the case the parties should bear their respective costs.