
(1963) 08 MP CK 0005
In the Madhya Pradesh High Court
Case No : First Appeal No. 10 of 1963

Badrilal Bholaram

APPELLANT

Vs

State of Madhya Pradesh and Another

RESPONDENT

Date of Decision : 02-08-1963

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 7 Rule 11
Court Fees Act, 1870 — Section 7(iv)(c)

Citation : AIR 1964 MP 9 : (1965) ILR (MP) 485 : (1963) JLJ 674

Hon'ble Judges : P.V. Dixit, C.J; K.L. Pandey, J

Bench : Division Bench

Advocate : J.D. Patel, for the Appellant; H.L. Khaskalam, Government Advocate, for the Respondent

Judgement

Pandey, J.—This appeal comes before us on a reference made by Newaskar J. for considering a question relating to court-fee on which divergent views have been expressed in Single Bench decisions of this Court. We have also heard, along with this reference, Civil Revision No. 244 of 1963, in which a similar question has been raised. This order shall dispose of the revision.

2 In Civil Suit No. 8 of 1955, out of which this appeal arises, the plaintiff claimed a declaration that certain orders passed by officers of the Forest Department, whereby they imposed on him a liability for Rs. 16,318-8-0 on account of price of trees said to have been illegally felled and by way of penalty, were illegal and against the terms of the forest contract. The plaintiff further claimed a permanent injunction restraining the defendants from recovering the aforesaid amount. Since that suit was dismissed, he has filed this appeal. As in the Court of first instance, he has, in this appeal, valued the relief claimed at Rs. 1,600/- for purposes of court-fee and at Rs. 16,318-8-0 for purposes of jurisdiction.

3. In Civil Suit No. 2-A of 1961, out of which the revision arises, the plaintiff states that he is, having regard to the terms and conditions of the lease granted to him, not liable to pay the enhanced royalty amounting to Rs. 61,173.41

demanded from him. The relief which he claims is:

"Plaintiff prays for a perpetual injunction against the defendant restraining him from claiming the demand of Rs. 61,173.41 nP. or any part of it, as it is illegal, and/or from recovering any sum which is not legally payable by plaintiff."

Although he has valued the suit for purposes of court-fee as well as jurisdiction at Rs. 61,173.41 nP., he paid the fixed court-fee of Rs. 20/- because

"this suit is for a mere declaration."

4. It is obvious that Civil Suit No. 8 of 1955 and the appeal therefrom arising are governed by Section 7(iv) of the Court-fees Act, the relevant clauses of which read:

"(iv) In suits-

(c) to obtain a declaratory decree or order, where consequential relief is prayed,

(d) to obtain an injunction,

according to the amount at which the relief sought is valued in the plaint or memorandum of appeal with a minimum fee of twenty rupees. In all such suits the plaintiff shall state the amount at which he values the relief sought."

It is also not disputed before us that the suit and the appeal are governed by Clause (iv) (c) of the Act. The other suit, in which the relief claimed is perpetual injunction, cannot be regarded as a suit for mere declaration, in our opinion, that too is substantially a suit for declaration with the consequential relief of perpetual injunction governed by Clause (iv) (c) *ibid*.

5. Since in all cases covered by the various clauses of Sub-section (iv) of Section 7, liberty has been given to the plaintiff to value the relief for purposes of court-fee, it is urged before us that the Court cannot ask him to correct the valuation or require him to make up the deficiency in court-fee. In connection with this argument, Newaskar J. noticed the divergent views expressed in *The Straw Products Limited Vs. The Municipal Board*, and *Nathuram Kashiram Vs. State Government of Madhya Pradesh*, . In the course of arguments, our attention was also drawn to two other Single Bench decisions of this Court, *Seth Badriial v. State of Madhya Pradesh*, Civil Revn. No. 450 of 1960 D/- 12-9-1961 (MP) and *Ghasiram v. State of Bombay* Civil Revn. No. 239 of 1962 D/- 31-10-1962 (MP).

6. It is plain from the language of the enactment itself that, in suits governed by the various clauses of Sub-section (iv) of Section 7, liberty has been given to the plaintiff to value the relief claimed by him for purposes of court-fee. In *S.Rm.Ar.S.Sp. Sathappa Chettiar Vs. S.Rm.Ar.Rm. Ramanathan Chettiar*, the Supreme Court authoritatively clarified the position and observed:

"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." (P. 1033 or SCR) : (at p. 251 of AIR).

7. While the plaintiff is at liberty to value the relief claimed in suits governed by the various clauses of Sub-section (iv), including those for a declaration with the consequential relief of injunction, this Court has consistently held that he cannot be allowed to put an arbitrary value and that, if he does so and the Court considers that it is too low or unreasonable in that it bears no relation to the right litigated, it may require him to correct the valuation: AIR 1937 316 (Nagpur) , Motiram v. Daulat ILR (1938) Nag 558: (AIR 1939 Nag 50) (FB), Ratansingh v. Raghurajsingh ILR (1945) Nag 975: (AIR 1946 Nag 30), AIR 1948 223 (Nagpur) , AIR 1948 219 (Nagpur) and Kashinath v. Tukaram ILR (1956) Nag 514: ((S) AIR 1956 Nag 195).

8. In the Full Bench case, the relevant observations are;

"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 (see *Krityanand Singh and Others Vs. Dinu Manjhi and Others*,) should not lightly disturb the plaintiff's valuation and should only do so if it is apparent that that 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 definite ness 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 where 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." (Pages 569-70 or ILR Nag): (at p. 56 of AIR):

This principle, which is well established, was accepted by Tare J. in *The Straw*

Products Limited Vs. The Municipal Board, and by Razzaque J. in Civil Revn. No. 450 of 1960 D/- 12-9-1961 (MP) (supra). They, however, took the view that in the cases before them, the valuation was not unreasonable or arbitrary. They relied on the following observations made in the Full Bench case;

"It is not, in our opinion, 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." (Page 568 of ILR Nag) : (at p. 55 of AIR).

9. The precise question for our consideration is whether, in the two cases before us, the valuation for the purposes of court-fee is so unreasonably disparate and arbitrary as to require interference. We agree that there are cases where there is a difference between the value of the thing affected by the action and the value of the relief sought in respect thereof. But we are of the view that, speaking generally, where the relief sought itself has a real money value which can be objectively ascertained, that value is the value of the relief and any other value ascribed to it is arbitrary and unreasonable. So, we think that where a plaintiff is sought to be made liable either under a deed or a decree for a specified amount and he seeks to avoid that liability, the value of the relief is the extent of loss, to which but for the suit he would be subjected and from which he wants to be relieved. So, in ILR (1945) Nag 975 : (AIR 1946 Nag 30) a Division Bench of this Court stated:

"The decision of the Judicial Commissioner's Court and the High Court has been that where the plaintiff wants to escape liability under a deed or a decree for a particular amount, he must pay ad valorem court-fee on the amount of such liability and he cannot be permitted to put an arbitrary valuation of the relief u/s 7(iv)(c) of the Act."

"It is obvious that, in each of the two cases before us, the plaintiff seeks to avoid his liability under a deed executed by himself which, but for the suit, would be enforced against him. In this situation, his contention that the claim made from him cannot really be grounded on the deed is not material for valuing the relief claimed by him. We are therefore of opinion that the value of the relief of injunction claimed in each case is the amount, the liability for which he seeks to avoid.

10. In Civil Suit No. 2-A of 1961, the plaintiff has already valued the suit for purposes of court-fee at Rs. 61,173.41 nP. That being so, Civil Revision No. 244 of 1963 must fail. However, the lower Court shall grant to the plaintiff reasonable time to pay the deficient court-fee.

11. In the other case, the value of the relief is arbitrary and unreasonable. The appealing plaintiff shall now value the relief in the light of the observations we have made in the foregoing paragraphs.