

(1935) 02 AHC CK 0005
In the Allahabad High Court

Chandra Shekhar

APPELLANT

Vs

Sri Thakurji Maharaj and Others

RESPONDENT

Date of Decision : 27-02-1935

Acts Referred:

Court Fees Act, 1870 — Section 7(v)(c)

Court Fees Act, 1870 — Section 7(v)(c)

Court Fees Act, 1870 — Section 7(v)(c)

Citation : AIR 1935 All 642 : 155 Ind. Cas. 668

Hon'ble Judges : Bennet, J

Bench : Division Bench

Judgement

Bennet, J.—This is an application in revision by a plaintiff against an order refusing review. The plaintiff brought a suit for possession of a part of a village which was revenue-free and the defendant filed an objection that, the court-fee was insufficient. The Court passed an order in regard to the amount of court-fee, and calculated the profits under the Court-fees Act, Section 7(v)(c) after hearing the parties. The review asks that the Court should reconsider that order on the ground that there was an error apparent on the face of the record. In the grounds of revision it is set out that there was an error as profits had not been calculated for the next previous year but for a period much prior. Learned Counsel explains that the suit was brought on 26th January 1933, and that in his opinion the year to be taken was the year 1932. He bases this on the General Clauses Act, definition of "year" as calendar year. But it is stated in Section 3 that these definitions will apply "unless there is anything repugnant in the subject or context. In the context of this Sub-section (v) there are Sub-sections (a) and (b) relating to land paying revenue to Government. For Government revenue the period taken is the Fasli year. The Court therefore naturally took the Fasli year 1339 for Sub-section (c) where the land was revenue free. I consider that from the context the Court was correct and it cannot be said that in not applying the General Clauses Act there was any error on the face of the record. Moreover from the subject also the Court was correct, because the profits in the

patwari's registers are made up for the Fasli year and not for the calendar year. Learned Counsel further argued that the matters in ground No. 4 had not been considered. That was some question of deductions. Whatever argument about deductions was to be made should have been made at the time of the original order and not later on application for review. Reference was made to Murai Rao v. Balvanth Dikshit 1924 Mad. 98. That was a case where there was an error of law apparent on perusal of the record. It cannot be said that the present order was one where there was. any such error apparent. For these reasons I dismiss this application with costs.