

(1931) 11 MAD CK 0035
In the Madras High Court

(Elury) Suryanarayana

APPELLANT

Vs

Rajah of Vizianagaram

RESPONDENT

Date of Decision : 27-11-1931

Acts Referred:

Citation : AIR 1932 Mad 565

Hon'ble Judges : Cornish, J

Bench : Division Bench

Judgement

Cornish, J.—The question for determination is whether the suit is a suit for money, and accordingly governed by Section 7, Clause 1, Court-fees Act, as held by the District Munsif, or whether it is a suit for accounts, and therefore governed by Section 7, Clause 4(f), as contended for by the petitioner, who is the plaintiff. The plaint prays for an account and for the payment of such sum as shall be found due to the plaintiff on the taking of an account. But a suit does not necessarily become a suit for accounts because the plaint asks for an account. The plaint must show that the defendant is an accounting party and that the plaintiff claims on the footing that an account has to be taken to ascertain the sum due to him. The plaint here sets out that plaintiff was in the employment of the defendant as a Revenue Inspector; that his superior officer made a complaint of his having misappropriated certain rent collections; and that under a threat of criminal prosecution and of losing his employment the plaintiff paid a sum of Rs. 1,769 odd in five separate amounts to cover the alleged defalcations. The plaint alleges that it was specially agreed at the time of each payment that the accounts would be settled and that such money as was not found owing to defendant would be paid back to the plaintiff. The plaint further alleges that defendant was bound to render an account in respect of these payments, and that he had not done so, nor made any investigation of the plaintiff's account books for that purpose. Para (e) of the plaint says:

In any view of the case, amount of Rs, 1,769, or such portion of the amount as was not then owing to defendant, must in the eye of the law be deemed to have

been paid under threats, by a person having a dominating influence over plaintiff, and the plaintiff is entitled to a return of it with interest at 6 per cent.

2. The plaintiff's prayer is for

a decree directing that the accounts of the transactions which led up to the deposit of Rs. 1,769 be taken and that the defendant be directed to pay such amount as may be found due.

3. Although the plaintiff does not admit misappropriation of any money, he admits in the plaint that he has falsified the accounts, and that some money may be found due by him to the defendant. The pleading is not precise; but it appears to me that plaintiff is not claiming to recover the sum of Rs. 1,769, paid by him, but only so much as may be found due after an account has been taken. I think therefore the suit should be regarded as substantially a suit for accounts. The suit then, falling u/s 7, Clause 4(f), the court-fee payable is to be computed according to the amount at which the relief sought is valued in the plaint. The plaintiff fixed that value at Rs. 100. The District Munsif has discussed the effect of the plaintiff's having valued the suit for purposes of jurisdiction at a different figure, namely Rs. 1,769. But this valuation for jurisdiction was immaterial; the authorities show that in a suit governed by Section 7, Clause 4(f) a plaintiff is entitled to pay court-fee on the value he has thought fit to give to the relief sought, notwithstanding that he has through mistake or inadvertence stated the value for the purposes of jurisdiction at a different figure: see *Sailendra Nath v. Ram Chandra* AIR 1921 Cal. 84, *In Re: Court-fee Act and Kalipada Mukharjee*, . Learned Counsel for the respondent has relied on the judgment of Jackson, J., in *(Pothi) Annapurnayya Vs. (Pothi) Nagaratnamma and Others*, , as laying down a different rule. But in my view it does nothing of the kind; and in fact it cites and accepts the proposition laid down in *Sailendra Nath v. Ram Chandra* A.I.R.1921Cal.84, that the valuation for purposes of jurisdiction should follow and be the same as the valuation for court-fee.

4. The result is that this revision petition will be allowed with costs throughout and the order of the District Munsif set aside.