
(1969) 09 MAD CK 0042
In the Madras High Court

G. Pulla Reddy, Specialist in Quality Sweets APPELLANT
Vs
The Indian International Trade and Industries Fair, 1968, RESPONDENT
India

Date of Decision : 11-09-1969

Acts Referred:

Arbitration Act, 1940 — Section 14, 20, 8

Citation : (1970) 1 MLJ 558

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

Bench : Single Bench

Judgement

K.S. Palaniswamy, J.—The question is what is the correct Court-fee payable in this case. The petitioner has taken out this application as Judges, Summons under Sections 8 and 20 of the Arbitration on Act, 1940, for a direct on to the respondent to file an arbitration-agreement dated 28th November, 1967 into Court and for making an order of reference of the dispute to an Arbitrator to be appointed by this Court. The applicant has paid a Court-fee of Rs. 2. The office has pointed out that Court-fee of Rs. 250 should be paid on the application on the basis that it has been presented to the High Court as provided in Schedule II, Article 1 (11) (n) of the Court-fees and Suits Valuation Act. This view does not appear to be correct. The earlier part of Article 1 (11) (n) no doubt refers to an application u/s 14 or an application u/s 20 of the Arbitration Act. But the subsequent portion refers to the value of the subject matter of the award as the criterion for a decision on the question of Court-fee. If the Value of the subject-matter of the award does not exceed Rs. 5,000, the Court-fee payable is Rs. 15. If such value exceeds Rs. 5,000 but does not exceed RW. Rs. 10,000, the Court fee payable is Rs. 100, and if such value exceeds Rs. 10,000, the Court-fee payable is Rs. 250. From this it is manifest that the Legislature has intended that Court-fee is payable upon the value of the subject-matter of the award. But where there is no award, no question of Value of the subject-matter of the award arises. In a case where there is only an agreement, which has not resulted in an award, the latter part of the Article is not attracted and the applicant who merely

wants an arbitration agreement to be filed into Court cannot be called upon to pay Court-fee upon any value which is yet to be ascertained under the award to be passed.

2. Under the Court-fees Act of 1870 there was Article 18 in Schedule II which dealt with applications u/s 14 or Section 20 of the Arbitration Act. Under that Article, a Court-fee of Rs. 15 was payable upon such an application either for direction for filing an award or for an order for filing an agreement when it was presented to a District Munsif's Court or a City Civil Court. But if it was presented in a District Court or a Sub-Court, the Court-fee payable was Rs. 100. In re-enacting this provision in Schedule II Article 1 (11) (n) of the Act of 1955, the Legislature made some additions. But in making the additions, the matter was not made clear. Though the Article, as re-enacted, is intended to apply to a case of an application for filing an award and also to a case of an application for filing an agreement, the subsequent portion of the Article covers only a case of an award, and no provision is made as to the Court-fee payable on a application made only for the purpose of filing an agreement. As pointed out above, where the matter is only in the stage of agreement, there is no question of the value of the subject-matter of the award. In this view, the language of Schedule II, Article 1 (11) (n) requires suitable amendment. Unless all the conditions laid down in that Article are satisfied, a mere application for filing an agreement cannot be brought within its ambit. This being only a Judge's Summons, the petitioner has paid Rs. 2 as Court-fee. This application cannot also be called an Original Petition so as to attract the application of Schedule II, Article 1 (I) (iii) requiring payment of Rs. 20 as Court-fee. The Court-fee of Rs. 2 on the Judge's Summons appears to be sufficient.