

(1967) 10 DEL CK 0001

In the Delhi High Court

Case No : Civil Miscellaneous (Main) Appeal No. 75 of 1967

Gautam Dev

APPELLANT

Vs

Lila Wati

RESPONDENT

Date of Decision : 23-10-1967

Acts Referred:

Citation : (1967) 3 DLT 697

Hon'ble Judges : M.K.M Ismail, J

Bench : Single Bench

Advocate : L.K. Gupta, for the Appellant;

Judgement

M.M. Ismail, J.

(1) The respondent herein filed a suit for the recovery of a sum of Rs. 2214.14 against the petitioner herein. Paragraph 6 of the plaint was as follows:-

That the value of the suit for the purpose of Court fee for the recovery of arrears of rent is Rs. 2080.00 and for recovery of electric charges is Rs. 134.14, upon which Court fee of Rs. 284.20 and Rs. 14 has been fixed." --- *** --- It is obvious that as required by Rule I(i) of Order Vii of the Code of Civil Procedure, the valuation for the purpose? of Jurisdiction has not been mentioned. However, the suit being a simple suit for the recovery of money and the Court fee being ad valorem, there cannot be any doubt whatever, that the valuation for the purpose of jurisdiction will be the same as that for the court fee. In view of this, while framing the issues, the court below observed as follows:-

" IN Para No. 6 of the plaint, the plaintiff stated the value for the purposes of court fee, but it appears that the word jurisdiction was omitted. This being a money suit the value for the purposes of court fee and jurisdiction has to be the same The defendant raised an objection in the written statement that the omission to state the jurisdictional value renders the plaintiff's suit liable to dismissal. That contention, however has no force in so far as there is obviously a clerical error which can be corrected at any stage. There is no necessity for filing

of an application for the amendment of the plaint and I allow the plaintiff to amend para No. 6 on payment of Rs. 50.00 as costs." It is this order of the learned Subordinate Judge that is challenged in this application under Article 227 of the Constitution of India. That argument of the learned counsel for the petitioner is that under Order 6 Rule 17, Sub rule (2) as introduced by the Punjab High Court on 14th December 1931, every application for amendment be in writing and shall state the specific amendments which are sought to be made, indicating the words or paragraphs to be added, omitted or substituted in the original pleading and this requirement has not been complied with. Even assuming that this contention of the learned counsel is well founded, I am unable to see how Article 227 of the Constitution can be invoked for this purpose. Article 227 of the Constitution is not intended to correct every mistake a subordinate Court may commit in the proceedings it follows in the trial of suits which it deals with everyday. The scope and purpose of Article 227 of the Constitution is something very different from the correction of such errors. I repeatedly asked the learned counsel how Article 227 will lie under these circumstances. The learned counsel referred to a decision of the Supreme Court in *Satyanarayan Laxminarayan Hegde and others v. Mallikarjun Bhavanappa Tirumale* and a decision of the Calcutta High Court in *Aswini Kumar Pramanik v. Dominion of India*, through the Certificate Officer and contended that the scope of the jurisdiction of the High Court under Article 227 is much wider than the scope u/s 115 of the Code of Civil Procedure, and therefore, he is entitled to invoke Article 227 of the Constitution. I am unable to agree. The decisions referred to by the learned counsel do not lay down any such proposition. There may be some overlapping between the jurisdiction covered by Section 115 CPC and that covered by Article 227 of the Constitution, but Article 227 of the Constitution has to be resorted to and made use of very sparingly for the purpose of correcting grave cases of injustice or miscarriage of justice. As far as this particular case is concerned, there can be no injustice whatever which the petitioner can be said to suffer from the amendment ordered by the Court below. Even u/s 115, Code of Civil Procedure, if a petitioner makes out a case that there has been an error on the part of the subordinate Court with reference to a particular case, still it is not obligatory on the part of the High Court to interfere with that order, since the jurisdiction of the High Court is only discretionary, and in this particular case, when justice has been done and no injustice or prejudice whatever has resulted to the petitioner herein, there is absolutely no scope whatever to invoke the jurisdiction of this Court either u/s 115, CPC or under Article 227 of the Constitution. The petition is accordingly dismissed.