
(2016) 08 AHC CK 0261
In the Allahabad High Court
Case No : Civil Revision No. 238 of 2016

Hari Krishan

APPELLANT

Vs

Smt. Salini Jain

RESPONDENT

Date of Decision : 09-08-2016

Acts Referred:

Court Fees Act, 1870 — Section 7(iv-A)
Specific Relief Act, 1963 — Section 34, Section 38

Citation : (2016) 4 CivilLJ 414

Hon'ble Judges : Pankaj Mithal, J.

Bench : Single Bench

Advocate : Jagdish Prasad Tripathi, A.D. Sanders, Advocate, for the Revisionist;
None, for the Opposite Party

Final Decision : Dismissed

Judgement

Pankaj Mithal, J.—Heard Sri A.D. Saunders learned counsel for the plaintiff-revisionists.

2. The plaintiff-revisionists instituted a suit for declaring the sale deed to be null and void and for permanent injunction in respect of the property transferred by the aforesaid sale deed.

3. The court of first instance while deciding issue no. 3 regarding valuation and sufficiency of court fees held that the plaintiff revisionists are liable to pay court fees on the market value of the property involved in the sale deed in respect of which the declaration is sought.

4. In other words, the court below directed for the payment of court fees according to Section 7 (iv-A) of the Court Fees Act 1870.

5. In Shailendra Bahardwaj and others v. Chandra Pal and another (2003) 1 SCC 579 a similar question regarding payment of court fees in a suit for declaration of will/sale deed as void had come for consideration before the Apex Court and it was held that such a relief results in cancellation of will/sale deed. Accordingly,

computation of court fee in such a case has to be as per Section 7 (iv-A) and not Article 17 (iii) of the Schedule II of the Court Fees Act, 1870 despite the fact that no consequential relief is claimed in the suit.

6. Sri Saunders has tried to distinguish the aforesaid authority by saying that in the instant case consequential relief of permanent injunction has also been claimed and, therefore, the controversy would not be covered by above decision.

7. The argument has no substance inasmuch as the suit is for declaration of the sale deed as null and void resulting in the cancellation of the sale deed. The relief of permanent injunction is not a consequential relief rather it is an additional relief.

8. Even otherwise, the aforesaid authority itself holds that in such cases of declaration of an instrument to be void, the court fee have to be computed according to the value of the subject matter irrespective of any consequential relief and goes on to add the position would be same if no consequential relief is claimed.

9. In view of the aforesaid facts and circumstances of the case, the matter stands concluded by the above decision of the Supreme Court and plaintiff-revisionists are liable to pay court fees on the relief on declaration of the sale deed to be null and void resulting in its cancellation under Section 7 (iv-A) of the Court Fees Act and not according to Article 17 (iii) Scheduled of the said Act as amended to the State of U.P.

10. The revision as such lacks merits and is dismissed.