

(2000) 05 SC CK 0046

In the Supreme Court Of India

Case No : Civil Appeal No. 3340 of 2000 (Arising out of SLP (C) No. 4164 of 1999)

H.P. State Electricity Board and Others

APPELLANT

Vs

Virendra Hotel and Allied Industries (P) Ltd. and Another

RESPONDENT

Date of Decision : 05-05-2000

Acts Referred:

Citation : (2000) 8 JT 108 : (2000) 9 SCC 738

Hon'ble Judges : D. P. Mohapatra, J;A. P. Misra, J

Bench : Division Bench

Final Decision : Allowed

Judgement

A.P. Misra, J.—Leave granted.

2. Heard learned Counsel for the parties.

3. The plaintiff filed a suit for declaration that the notices issued by defendant No. 3 for the recovery of electricity charges are illegal, void and arbitrary and also for a decree by way of permanent injunction restraining the defendants from effecting the recovery of such charges from the plaintiff. In suit an application was moved by the defendant that the plaint should be rejected under Order 7, Rule 11 as the plaintiff had intentionally undervalued the suit for the purpose of court fee and jurisdiction. The plaintiff fixed the valuation of the suit, for purposes of the court fee and jurisdiction at Rs. 200/- and for the relief of declaration and injunction at Rs. 130/-.

4. The High Court while considering the challenge by the present appellant so far the payment of court fee is concerned, held this matter is between the State and the plaintiff and as the State did not file any appeal, the appellants have no right to agitate it. However, grievance of the appellants before us is that the High Court in the same breath has decided the question of territorial jurisdiction of the court without giving any reason to which appellant is vitally interested. Thus it is this part of the order which is being challenged before us.

5. We heard learned Counsel for the parties.

6. The High Court so far as the question of territorial jurisdiction of the court has not given any reason and has not even adverted to the facts for the purpose of coming to that conclusion. Hence the order of the High Court cannot be sustained. We normally would have sent this case back for its decision by the trial court but on the facts of this case it could be appropriate that the High Court itself decide this question. Normally, again we would not have set aside the whole order in this case when one relates to the question of valuation for the purposes of court fee which the State is concerned but facts of this case, for deciding question of jurisdiction of the court, is a matter so inter-linked that in the larger interest we are doing the other way.

7. Hence, for all these reasons it is appropriate to quash the whole order of the High Court and send the case back to it to decide both the question of court fee and jurisdiction afresh on merits after hearing learned Counsel for the parties in accordance with law.

8. With the aforesaid observation, the present appeal is allowed. Costs on the parties.