
(2008) 10 JH CK 0032
In the Jharkhand High Court

Jhari Mahto and Others

APPELLANT

Vs

Sagar Mahto and Others

RESPONDENT

Date of Decision : 21-10-2008

Acts Referred:

Constitution of India, 1950 — Article 227
Court Fees Act, 1870 — Section 7, 7(iv)
SUITS VALUATION ACT, 1887 — Section 8

Citation : (2009) 1 JCR 31 : (2010) 2 RCR(Civil) 681

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

M.Y. Eqbal, J.—Since a simple question of law is involved in this application filed under Article 227 of the Constitution of India, I do not think it necessary to hear the respondents before passing the order.

2. The question of law involved is as to whether the Court of Subordinate Judge is justified in passing the impugned order dated 3.1.2008 in Title Suit No. 237 of 2007 whereby he has ordered for return of the plaint on the ground that the Court of Subordinate Judge has no pecuniary jurisdiction. According to the learned Subordinate Judge, since the suit was valued at Rs. one lac only, it comes with the pecuniary jurisdiction of Munsif.

3. Prima facie it appears that the Court below has not applied his mind while passing the impugned order. The plaintiffs-petitioners filed the aforementioned suit for adjudication of right, title and interest and for declaration of their possession over the suit premises and in the event plaintiffs are dispossessed, decree for recovery of possession be passed. In addition to that, plaintiffs also sought decree for permanent injunction restraining the defendants and their men, servants and agents from disturbing peaceful possession of the plaintiffs over the suit land. Plaintiffs valued the suit at Rs. one lac one hundred i.e. Rs. one lac for the first relief and Rs. one hundred for the second relief of permanent

injunction. Para 16 of the plaint reads as under:

16. That the suit is valued at Rs. 1,00,100/- for the purpose of jurisdiction, out of which Rs. 1,00,000/- is the value of the suit land and Rs. 100/- is the value for the permanent injunction, upon which ad valorem Court-fees are paid.

4. It is, therefore, clear that for the purpose of both the Court-fees and jurisdiction, the suit was valued at Rs. 1,00,100/- which comes within the pecuniary jurisdiction of Subordinate Judge. It is well settled that the determination of valuation for the purpose of Jurisdiction depends upon the determination of the valuation for the purpose of payment of Court-fee within the meaning of Section 8 of the Suits Valuation Act. Computation of Court-fees in suits falling u/s 7(iv) of the Court-fees Act depends upon the valuation that the plaintiff makes in respect of his claim. Once the plaintiff exercise his option and values his claim for the purpose of Court-fee, that determines the value for jurisdiction. This principle has also been enunciated by the Supreme Court in the case of S.Rm.Ar.S.Sp. Sathappa Chettiar Vs. S.Rm.Ar.Rm. Ramanathan Chettiar, , where their Lordships observed:

15. What would be the value for the purpose of jurisdiction in such suits is another question which often arises for decision. This question has to be decided by reading Section 7(iv) of the Act along with Section 8 of the Suits Valuation Act. This latter Section provides that, where in any suits other than those referred to in Court Fees Act, Section 7, paras 5, 6 and 9 and para 10 Clause (d), Court-fees are payable ad valorem under the Act, the value determinable for the computation of Court fees and the value for the purposes of jurisdiction shall be the same. In other words, so far as suits falling u/s 7, Sub-section (iv) of the Act are concerned, Section 8 of the Suits Valuation Act provides that the value as determinable for the computation of Court fees and the value for the purposes of jurisdiction shall be the same. There can be little doubt that the effect of the provisions of Section 8 is to make the value for the purpose of jurisdiction dependent upon the value as determinable for computation of Court fees and that is natural enough. The computation of Court fees in suits falling u/s 7(iv) of the Act depends upon the valuation that the plaintiff makes in respect of his claim. Once the plaintiff exercises his option and values his claim for the purpose of Court-fees, that determines the value for jurisdiction. The value for Court fees and the value for jurisdiction must no doubt be the same in such cases; but it is the value for Court fees stated by the plaintiff that is of primary importance. It is from this value that the value for jurisdiction must be determined. The result is that it is the amount at which the plaintiff has valued the relief sought for the purposes of Court fees that determines the value for jurisdiction in the suit and not vice versa. Incidentally we may point out that according to the appellant it was really not necessary in the present case to mention Rs. 15,00,000/- as the valuation for the purposes of jurisdiction since on plaints filed on the Original Side of the Madras High Court prior to 1953 there was no need to make any jurisdictional valuation.

5. In the light of the provisions as contained in Court Fees Act and the Suit Valuation Act, the impugned order cannot be sustained in law.

6. For the reasons aforesaid, this writ application is allowed and the impugned order is set aside. It is held that the suit filed by the plaintiff-petitioners comes within the pecuniary jurisdiction of the Court below.