
(1996) 11 AP CK 0024
In the Andhra Pradesh High Court
Case No : C.R.P. No. 1463 of 1992

Komanduri Bhanumathi and Others

APPELLANT

Vs

The Guntur Municipal Council and Another

RESPONDENT

Date of Decision : 15-11-1996

Acts Referred:

Citation : (1996) 4 ALT 730

Hon'ble Judges : K.B. Siddappa, J

Bench : Single Bench

Advocate : T. Veerabhadrayya, for the Appellant; M. Prabhakara Rao, for the Respondent

Final Decision : Dismissed

Judgement

K.B. Siddappa, J.—This Revision is filed against the order passed in O.S. No. 262/89 on the file of Additional Subordinate Judge, Guntur.

2. The Suit is filed by 19 plaintiffs for a permanent injunction restraining the defendants from interfering with their possession and enjoyment of schedule of property, consisting of plots 1 to 19. The plaintiffs valued the Suit and paid the Court Fee u/s 26(c) of A.P. Court Fees & Suits Valuation Act. The Inspection Staff took objection and issued a check slip stating that the Court Fees cannot be paid u/s 26(c) of the Act on the ground that though single Suit is filed, the reliefs sought are individual in respect of plots 1 to 19. Therefore, the plaintiffs have to pay Court Fee on each relief.

3. It was contended on behalf of the plaintiffs that common questions of law and fact arise and as such the plaintiffs are right in joining in one suit and that the Court Fee paid is proper. It is further submitted that u/s 16 of the A.P. Court Fees & Suits Valuation Act, Court Fee examiner appointed by the High Court alone should examine the correctness of the Court Fee and not the District Judge at the time of inspection etc. The lower Court negated the contentions and directed to pay the Court Fee as per the check slip.

4. Aggrieved by the said order the present Revision is filed.

5. The learned Counsel appearing for the Revision Petitioners submitted that all the petitioners are in possession of their respective plots. They claimed common relief against Guntur Municipality. As common questions of law and fact arise, the plaintiffs are entitled to file a single Suit and also to club the causes of action and pay Court Fee as per Section 26(c) of the Act. He also contended that the District Judge, at the time of inspection, cannot deal with the question whether the plaint is properly stamped or not. It is only the Court Fee Examiners, appointed by the High Court, that are competent to examine the correctness of the Court Fee.

6. In support of his contention he relied upon the judgment in Janaki Ammal and Another Vs. D. Rangachari, . In this case, it was held that ordinarily there are three stages at which a Court can enquire into the question whether the plaint or appeal has been properly valued. They are (1) Before the registration of the plaint or appeal. In such cases it will be open to the Court to review, correct and 45 further review its decision in the manner specified in Section 12(1) of the Act; (2) After the Suit or Appeal has been registered an issue on the Court fee can be raised by the defendant or respondent and the Court should decide the matter, and that in such cases the decision will be binding on the Court that rendered it unless a fresh decision is asked for by the Court fee examiner; (3) On the objection of the Court fee examiner u/s 18 of the Act, when a decision has been given on the report of the Court fee examiner, no further review or reconsideration is possible except by an appellate Court u/s 12(4) of the Act. It is also held that the decisions given u/s 18(2) of the Act will be final so far as that Court is concerned and that in the absence of statutory provision expressly enabling the Court to review its decision, a decision on the question of Court-fee once given will be binding on the Court which gave the decision at all subsequent stages.

7. He also relied upon a Bench judgment of this Court in Gadde Veeramma v. Bayipati Satyanarayana 1971 (2) ALT 191. In this case it was held that not only at the stage of registering the plaint but subsequent thereto on an objection raised by the defendant the matter relating to the valuation of the subject matter as well as the payment of Court fee can be heard and disposed of by the Court and that it is clear that whenever a Court fee examiner raises an objection relating to valuation of the subject matter and sufficiency of Court fee, it is obligatory on the part of the Court that these questions should be heard and decided by it and that in the presence of Section 16 no exception can be taken to the objection raised by the Court fee examiner deputed by the High Court and likewise no objection can be raised with regard to the competence of the appellate Court to take cognizance of such an objection and determine the question raised by the Court fee examiner and that the appellate Court's power to determine such questions on its own motion is not only recognised by Section 11(3) of the Act, but it is its duty u/s 16(2) of the Act to determine these questions whenever an objection is raised by the Court fee examiner.

8. There cannot be any doubt with regard to the principles laid down in the above judgments. But the facts are quite distinguishable. In the two decisions cited above, the parameters of the power of Courts while acting on judicial side are fully described and explained. But in the case on hand, the inspection staff went and inspected the Sub-Court. The annual inspection by the District Judge is as per the Civil Rules of Practice and also other instructions. In the course of inspection certainly the staff can point out the deficit Court fee paid on plaintiffs taking into consideration the reliefs sought. In this case, 19 persons who claimed plots have filed a single Suit and they paid Court fee as if it is a single transaction u/s 26(c) of the Act. This certainly is not correct. The lower Court held that the plaintiffs can file a single suit because common questions of law and fact arise. But they have to pay separate Court fee on individual reliefs claimed by the plaintiffs. This finding cannot be disturbed.

9. Now, the question arises whether the inspection staff can raise this objection at the time of annual inspection by the District Judge, as is done in this case. I have already mentioned that annual inspection by the District Judge is provided for under the Civil Rules of Practice. In the case of Assistant Sessions Judge a memorandum containing the questionnaire prescribed in the High Court's P.Dis. No. 71 of 1942, dated 2-2-1942 is there. For the description and numbering of Civil Registers Appendix II, Volume II, Civil Rules of Practice and C.O. are directed to be seen. In the proforma prescribed for annual inspection the first question is:

"1. (a) Are plaintiffs, petitions, appeals etc., received on proper stamps and are the stamp centres punched ?"

Therefore, the inspection staff has to investigate whether the plaintiffs are properly stamped, to answer this question. During the said inspection they found that the plaintiff in the present case was not properly stamped. Certainly they can issue check slip to this effect and the deficit Court fee on the plaintiff should be rectified. It is too much to say that a District Judge, while inspecting the records during inspection, cannot rectify the deficit stamp duty paid on the plaintiffs. The judgments cited, as I have already held, are concerned with the powers and stages where the Court can interfere and consider the correctness of the Court fee paid. Therefore, those two decisions are not relevant for the purpose of this case because the objection with regard to the Court fee paid was taken on the administrative side. The point raised in this Revision was not directly in question in the above two judgments. The District Judge is fully competent to enquire this fact on the administrative side during annual inspection.

10. The lower Court considered all these aspects and rightly rejected the contention of the Revision petitioners. There are no grounds to interfere with the order under Revision.

11. Hence, the Civil Revision Petition is dismissed and in the circumstances without costs.