

(2008) 09 MP CK 0059
In the Madhya Pradesh High Court

Mohanlal

APPELLANT

Vs

Kaji Vakiluddin and Others

RESPONDENT

Date of Decision : 16-09-2008

Acts Referred:

Court Fees (Madhya Pradesh Amendment) Act, 2008 — Article 1A

Citation : (2008) ILR (MP) 3152 : (2009) 1 MPHT 221 : (2009) 2 MPLJ 206

Hon'ble Judges : Viney Mittal, J

Bench : Single Bench

Judgement

Viney Mittal, J.

The controversy involved in the present petition, W.P. No. 4140 of 2008, and a bunch of other writ petitions, which have been clubbed along with the present petition, is with regard to the interpretation of Article 1-A of Schedule 1 of Court Fees (Madhya Pradesh Amendment) Act, 2008.

At the outset, it would be relevant to notice Article 1-A of Schedule 1 of the aforesaid Act as follows:

1-A. Plaint, written When the amount or Twelve percent statement pleading a value of the subject to a set-off or counterclaim, subject matter in minimum of one or memorandum of dispute does not hundred rupees. appeal (not otherwise exceed five lacs provided for in this rupees. Act) presented to any Civil or Revenue Court except When such Sixty thousand those mentioned in amount or value rupees plus seven Section 3 to any exceeds five lacs percent on the Civil or Revenue rupees but does amount or value in Court except those not exceed ten excess of five lacs mentioned Section 3. lacs rupees. rupees.

When such Ninety five amount or value thousand rupees exceeds ten lacs plus three percent rupees: on the amount or value in excess of Provided that ten lacs rupees minimum fee subject to a leviable on a maximum of one memorandum of lac and fifty appeal shall be thousand rupees. one hundred rupees.

Whereas the writ petitioners, who are the plaintiffs in their respective suits pending before the Trial Courts, maintain that irrespective of the valuations of the suits and the claim made in the said suit by a plaintiff, the maximum Court fee payable by a plaintiff in a suit on which ad valorem Court fee is payable, is rupees one lac fifty thousand only. The respective Trial Courts in various cases have observed that in case of a claim exceeding rupees ten lacs, the Court fee was to be paid as rupees ninety five thousand plus 3% on the amount in excess over and above rupees ten lacs (subject to a maximum of rupees one lac fifty thousand). In essence, the Trial Courts have interpreted the aforesaid clause to mean that the plaintiffs were required to pay not only rupees ninety five thousand on such suits, but a further amount subject to a maximum of rupees one lac fifty thousand over and above rupees ninety five thousand.

The aforesaid interpretation has been disputed by the plaintiffs in these petitions. The High Court Bar Association has also intervened. It has been claimed that on account of a wrong interpretation taken by various Trial Courts in the State, the litigants are suffering and being put to unnecessary burden. Various Senior Counsel have also addressed the Court pro bono publico.

Since the payment of Court fee is essentially a matter between the plaintiff, the Court and the State Government, and notices in the suits had yet to be issued to the defendants, and also keeping in view the importance of the matter, it was thought appropriate to require the Additional Advocate General of the State to address the Court and present the view point of the State on the interpretation of the amended provisions of the Act.

On the last date of hearing, i.e., August 26, 2008, Shri A.S. Kutumbale, learned Additional Advocate General had sought time to seek instructions and study the matter further. Consequently, the matter was adjourned to September 16, 2008, i.e., for today.

Today, at the very commencement of arguments, Shri Kutumbale, on instructions from the Law Department of the State Government, has stated before the Court that the interpretation, adopted by the various Trial Courts in the State, appears to be incorrect, inasmuch as, as per the true intention of Legislature, in formulating the aforesaid clause with regard to the maximum Court fee payable on a suit exceeding evaluation of rupees ten lacs, the maximum total Court fee could not have exceeded rupees one lac fifty thousand. Shri Kutumbale, further stated that the aforesaid intention of the Legislature is also inferable from the provisions, which also provide for a minimum amount of Court fee payable on a suit and shows that the Legislature had intended to provide minimum and maximum limits of Court fee payable by a suitor.

In view of the statement made by the learned Additional Advocate General, although the controversy appears to be settled and it is not necessary to discuss the matter any further, but I have also perused the aforesaid provisions of Article 1-A.

The language of Article 1-A clearly shows that on a plaint or a counter-claim/set off along with the written statement or memorandum of appeal, which requires the payment of ad valorem Court fee, when the amount or value of the subject-matter in dispute does not exceed rupees five lacs, a suitor is required to pay a Court fee of twelve percent on the valuation of the suit. However, even in matters involving petty claims, a minimum of Court fee of rupees one hundred has been provided.

Similarly, when the claim exceeds rupees five lacs, but does not exceed rupees ten lacs, the Court fee has to be paid as rupees sixty five thousand plus seven percent on the amount or value in excess of rupees five lacs. In the case of a suitor, where the claim/value exceeds rupees ten lacs, a suitor is required to pay Court fee of rupees ninety five thousand plus three percent on the amount in excess of rupees ten lacs. In the last situation however, there is a rider. The maximum amount of Court fee payable by such a suitor, has been indicated as rupees one lac fifty thousand. In fact, it would be wholly unnecessary to reiterate that the provisions of Court Fees Act are not for the imposition of a tax payable by a plaintiff/claimant, but the Court fee is required to be paid by a plaintiff/claimant, merely with a view to meet some of the expenses incurred by the State in providing a system for adjudication. A right to seek judicial review and approach, the Courts is one of the basic features of the Constitution of India. In a welfare State, an inexpensive system for administration of justice is not only an obligation of the State, but is also a fundamental right of a citizen, under the Constitution of India. Thus, the Court fee chargeable from a person approaching the Court, has to be kept in such reasonable limits, by the State, as may be deemed appropriate. It is with the aforesaid goal and objective in view that the provisions of the Court Fees Act, more-so Article 1-A of Schedule 1, have been framed. Thus, when the aforesaid provisions provide for a minimum Court fee of rupees hundred to be paid by a plaintiff/suitor, then it is apparent that a maximum ceiling of rupees one lac fifty thousand has also been fixed. In my considered view, the stand taken on behalf of the State Government is just and appropriate and reflects the true intention of the Legislature and therefore, needs to be accepted by the Court.

Consequently, it is directed that in a suit when the amount or value of the subject-matter in dispute exceeds rupees ten lacs, the Court fee payable thereupon by the plaintiff would be rupees ninety five thousand plus three percent on the amount or value in excess of rupees ten lacs, but the total Court fee payable by the plaintiff would be subject to a maximum of rupees one lac fifty thousand. For the sake of clarification, it is specified that the maximum Court fee required to be paid by a plaintiff on all such suits would be rupees one lac fifty thousand only and no more.

In view of the aforesaid discussion, the impugned order Annexure P-3 passed in W.P. No. 4140 of 2008 is hereby set aside. The Trial Court shall determine the Court fee payable by the plaintiff keeping in view the aforesaid directions.

Since the aforesaid controversy is arising everyday before the Subordinate Courts, therefore, it would be appropriate to direct the Registrar of the High Court Bench at Indore, to forward a copy of this order to the various District Judges in territorial jurisdiction of this Bench, for further circulation of the order to all the Courts subordinate to the said District Judges. A copy of this order be also forwarded by the Registrar to the Registrar General at the Principal Bench, for further necessary circulation, after getting appropriate orders from Hon''ble the Chief Justice.

Needless to say that since the question involved in the controversy was with regard to the correct interpretation of the provisos in question, therefore, this order passed by the Court interpreting the provisions of Article 1-A of Schedule 1 of the Court Fees (Madhya Pradesh Amendment) Act, 2008 would become operative w.e.f. April 2, 2008, i.e., the date on which the Amendment Act came into force.

C.c. as per rules.