

(2025) 08 GAU CK 0336
In the Gauhati High Court
Case No : CRP(IO) Of 214 Of 2025

Pratap Chandra Medhi Chairman

APPELLANT

Vs

Ek Saran Bhagwati Samaj Assam

RESPONDENT

Date of Decision : 04-08-2025

Acts Referred:

Constitution Of India, 1950 — Article 227
Court Fees Act, 1870 — Section 7(c)
Suit Valuation Act, 1887 — Section 7, 8
Bengal, Agra and Assam Civil Courts Act, 1887 — Section 21(1)

Citation : (2025) 08 GAU CK 0336

Hon'ble Judges : Devashis Baruah, J

Bench : Single Bench

Advocate : J. Sarmah, G. Das, S. Chamaria, M.M. Zaman

Final Decision : Disposed Of

Judgement

Devashis Baruah, J

1. Heard Mr. J. Sarmah, the learned counsel appearing on behalf of the petitioners. Mr. S. Chamaria, the learned counsel appears on behalf of the respondents.

2. The supervisory jurisdiction of this Court has been invoked challenging the order dated 29.05.2025 passed in Misc Appeal No. 04/2023 whereby the learned Court of the Additional District Judge No. 1, Kamrup (M), Guwahati (hereinafter referred to as, "the learned First Appellate Court") had dismissed the Appeal on the ground of lack of pecuniary jurisdiction.

3. Before dealing with the impugned decision of the learned First Appellate Court, this Court finds it pertinent to take note of certain facts having a bearing which led to the filing of the said Appeal before the learned First Appellate Court. The materials on record show that the respondents herein as plaintiffs had filed a suit being Title Suit No. 765/2022. A perusal of the plaint reveals that the

respondents herein as plaintiffs sought for certain declarations as well as for permanent injunction and mandatory injunction. The permanent prohibitory injunction as well as the mandatory injunction so sought for in the plaint appears to be dependent upon the declarations which have been sought for in the plaint. Therefore, from the very framing of the suit, it would transpire that the suit would come within the ambit of Section 7(iv)(c) of the Court Fees Act, 1870 (for short, "the Act of 1870"), meaning thereby, that it is a suit to obtain a declaratory decree and consequential reliefs.

4. This Court further finds it relevant to take note of Section 8 of the Suit Valuation Act, 1887 (for short, "the Act of 1887") which stipulates that the value as determinable for the computation of the Court Fees in respect of a suit coming within the ambit of Section 7 of the Act of 1870 and the value for the purpose of jurisdiction shall be the same. In other words, the valuation of the suit determines the value of the Court Fee to be payable and not vice versa. Therefore, the concept of valuing the suit for declaration as well as for injunction separately, more particularly, when the suit falls within the ambit of Section 7(iv)(c) of the Act of 1870 is misconceived. It is on the basis of the valuation of the suit, the Court Fee is required to be paid. The concept of valuation of the declaration and the injunction separately and thereby to determine the value of the suit is foreign on a conjoint reading of the provisions of the Act of 1870 and the Act of 1887.

5. In the instant case, a perusal of the plaint would show that the suit had been valued at Rs. 20,00,000/- and the injunction had been separately valued at Rs. 100/-, though the injunctions so prayed for in the suit are dependent upon the declaratory decree sought for in the suit and would therefore come within the ambit of a suit to obtain a declaratory decree or order along with consequential reliefs. However, what is noticed from a perusal of the plaint that the plaintiffs have in order to avoid payment of the ad valorem Court Fee on the valuation of Rs. 20,00,000/- which would be the maximum Court Fee payable insofar as applicable in the State of Assam have separately valued the suit for declaration and for injunction which is contrary to the provisions of the Act of 1870 and Act of 1877 as noted above.

6. Accordingly, it is therefore the opinion of this Court that as the plaintiffs had valued the suit at Rs. 20,00,000/- and the suit squarely comes within the ambit of Section 7(iv)(c) of the Act of 1870, the question of valuing the injunction separately does not arise.

7. Before moving forward, this Court while taking up the present roster which deals with orders, judgments and decrees passed by the District Judiciary dealing with civil jurisdiction had noticed a practice followed before the learned Trial Courts while presenting the plaint. Plaint of the present proceedings is one of such. The practice so followed is that the declaration would be valued at a particular amount and the injunction would be valued separately. By this process, the parties in the suit pay a paltry amount of Rs. 22/- for declaration and valuing

injunction at Rs. 100/- pays Rs.11/- as Court Fee though the suit comes within the ambit of Section 7(iv)(c) of the Act of 1870 seeking declaratory decree or order with consequential reliefs. At the cost of the repetition, it is observed that the payment of the Court Fee would be dependent upon the valuation of the suit in respect to those suits which are mentioned in Section 8 of the Act of 1887. In the present suit i.e., Title Suit No. 765/2022, the suit was valued at Rs. 20,00,000/- and therefore there was a requirement of payment of Court Fee at the ad valorem rate which as per the submissions so made by the learned counsels at the Bar is Rs. 11,000/- which is the maximum Court Fee.

8. Now let this Court proceed with the present determination.

9. The learned Court of the Civil Judge (Senior Division) No. 1, Kamrup(M), Guwahati (hereinafter referred to as, "the learned Trial Court") in Misc(J) Case No. 1179/2022 passed an order dated 21. 02.2023 whereby a temporary injunction was issued against the petitioners herein, their men, representatives, agents etc. thereby restraining them from using the name of "Ek Saran Bhagabati Samaj" till the disposal of Title Suit No. 765/2022. The records further reveal that an Appeal was filed by the petitioners herein challenging the order dated 21.02.2023 which was registered and numbered as Misc Appeal No. 04/2023. The issue of pecuniary jurisdiction neither featured in the said Appeal nor any plea was taken by either of the parties. By an order dated 25.08.2023, the learned First Appellate Court allowed the Appeal thereby setting aside the injunction order passed by the learned Trial Court dated 21.02.2023 in Misc (J) Case No. 1179/2022.

10. The records reveal that the Respondents herein preferred a proceeding under Article 227 of the Constitution of India before this Court which was registered and numbered as CRP No. 138/2023. This Court disposed of the said application vide the order dated 14.03.2024 whereby the order passed by the learned First Appellate Court dated 25.08.2023 in Misc Appeal No. 04/2023 was set aside and directions were issued to the learned First Appellate Court to decide afresh the said Appeal, however, without disturbing the findings which have been observed in the said order dated 14.03.2024. Paragraph Nos. 13, 14 and 15 of the said order dated 14.03.2024 passed by this Court being relevant, are reproduced herein under:

"13. This Court also finds it very pertinent to take note of that the learned 1st Appellate Court in the impugned order did not decide anything else beyond the question of maintainability of the suit. The learned 1st Appellate Court did not decide the legality and validity of the learned Trial Court's order of injunction on the other two principles necessary for grant of an injunction. Under such circumstances, this Court is of the opinion that this is a fit case therefore to remand the said proceedings back to the learned 1st Appellate Court to decide afresh the legality and validity of the injunction order. However, the points which have already been decided herein cannot be again agitated and decided by the learned 1st Appellate Court.

14. Accordingly, taking into account that the parties herein are duly represented, this Court therefore directs the parties to appear before the learned 1st Appellate Court on 08.04.2024 and the learned 1st Appellate Court shall fix a date for hearing of the said Appeal as per the business of the said Court and dispose of the said Appeal in accordance with law.

15. The learned Trial Court's injunction order dated 21.02.2023 passed by the learned Trial Court stands restored, but shall be subject to such further order(s) to be passed by the learned 1st Appellate Court."

11. It further appears that pursuant to the directions passed by this Court for rehearing the Appeal, the Appeal was heard and vide the impugned order dated 29.05.2025 passed in Misc Appeal No. 04/2023, the learned First Appellate Court dismissed the Appeal purely on the ground of lack of pecuniary jurisdiction. It is under such circumstances, the present proceedings have been filed.

12. It has been submitted at the bar by both the learned counsels appearing on behalf of the parties that the question of lack of pecuniary jurisdiction was not agitated by either of the parties before the learned First Appellate Court. However, the learned First Appellate Court, taking into consideration that the suit was valued at Rs. 20,00,000/- and the injunction was separately valued at Rs. 100/- and the cumulative value being Rs. 20,00,000/-, the learned First Appellate Court dismissed the Appeal opining that the learned First Appellate Court did not have the jurisdiction inasmuch as in terms with Section 21(1) of the Bengal, Agra and Assam Civil Courts Act, 1887, the pecuniary jurisdiction of the District Judge cannot exceed Rs. 20,00,000/-.

13. This Court in the foregoing segments of the instant judgment had categorically observed that from a perusal of the plaint, it appears that the suit so filed was a suit seeking a declaratory decree or order along with consequential reliefs, and it would come within the ambit of Section 7(iv)(c) of the Act of 1870. As the suit was valued at Rs. 20,00,000/- by the plaintiffs, the question of separately valuing the injunction is foreign to the concept envisaged in terms with the Act of 1870 and the Act of 1877. Accordingly, the suit has to be deemed to have been valued at only Rs. 20,00,000/- only and not Rs. 20,00,100/- as opined by the learned First Appellate Court.

14. In that view of the matter, as the suit is valued at Rs. 20,00,000/-, it is the opinion of this Court that the learned First Appellate Court had the pecuniary jurisdiction to decide the Appeal in terms with Section 21(1) of the Bengal, Agra and Assam Civil Courts Act, 1887.

15. This Court further takes notice that the learned First Appellate Court did not exercise the jurisdiction conferred upon it and had dismissed the Appeal by committing an error in exercise of its jurisdiction. Accordingly, this Court interferes with the order dated 29. 05.2025 passed in Misc Appeal No. 04/2023 and further directs the learned First Appellate Court to decide the Appeal afresh, keeping in account that the directions so passed by this Court in its order dated

14.03.2024 in CRP No. 138/2023, the relevant portion of which have been already quoted herein above.

16. Taking into account that both the parties are duly represented, they are therefore directed to appear before the learned First Appellate Court on 18.08.2025. The injunction order passed by the learned Trial Court dated 21.02.2023 passed in Misc (J) Case No. 1179/2022 shall continue till the next date so fixed before the learned First Appellate Court. The learned First Appellate Court shall extend the same upon consideration of application, if so filed.

17. This Court further directs the plaintiffs to deposit the additional Court Fee within 13.08.2025 before the learned Trial Court.

18. With the above observations and directions, the instant petition stands disposed of.