

(1948) 08 AHC CK 0011
In the Allahabad High Court

Sahu Madan Mohan

APPELLANT

Vs

Tejram George Coronation Hindu School Association and
Others

RESPONDENT

Date of Decision : 31-08-1948

Acts Referred:

Court Fees Act, 1870 — Section 6A
Suits Valuation Act, 1887 — Section 8

Citation : AIR 1949 All 207 : (1948) 18 AWR 335

Hon'ble Judges : Agarwalla, J;Agarwala, J

Bench : Division Bench

Judgement

Agarwalla, J.—This is an appeal u/s 6A, Court-fees Act by a plaintiff and raises a question of court-fees payable on the plaint.

2. The suit was for the following five reliefs : (a) It be declared that the plaintiff is intact the President of Tej Ram George Coronation Hindu High School, and is entitled to function as such. (b) It be declared that the resolutions dated 12-4-45, 2-5-45, 8-6-45, 10-6-45 and 1-7-45-and all the proceedings carried out by the defendants are void and ultra vires. (c) Defendants be restrained from altering or adding to the name of the institution. (d) Defendant 2 be restrained from functioning as the President. (e) Defendants be restrained from interfering in plaintiff's functioning as the President. The plaintiff valued relief (a) at Rs. 600, relief (b) at RS. 3000, relief (c) at Rs. 500, relief (d) at RS. 500 and relief (e) at Rs. 500. He paid fixed court-fees on the first two reliefs on the ground that these reliefs were purely declaratory reliefs where no consequential relief was sought, and, as such, fell under Article 17 (vi), Second Schedule of the Court-fees Act. He paid court-fee on reliefs (c), (d) and (e) at one tenth of their valuation on the ground that these were independent reliefs for injunction and fell u/s 7 (ivB), Court-fees Act as amended for these Provinces.

3. The suit was valued at RS. 5100 for the purposes of jurisdiction.

4. The defendants objected to the court-fee paid by the plaintiff on the plaint.

According to them, the plaintiff had claimed two declaratory reliefs coupled with a consequential relief and, as such, he was liable to pay ad valorem court-fee on a total valuation of Rs. 5100 u/s 7 (iv) (a), Court-fees Act as amended for these Provinces.

5. The lower Court has accepted the defendants contention and has ordered the plaintiff to pay ad valorem court-fee on the amount of Rs. 5100. The plaintiff has come up to this Court in appeal against the order of the lower Court.

6. Learned Counsel appearing for the plaintiff appellant argues that his case did not fall within the provisions of Section 7 (iv) (a). Section 7 (iv) (a) runs as follows:

In suits to obtain a declaratory decree or order where consequential relief other than relief specified in sub-Section (iv) (a) is prayed...according to the amount at which the relief sought is valued in the plaint or memorandum of appeal : Provided that in suits falling under Clause (a) where the relief sought is with reference to any immovable property, such amount shall be the value of the consequential relief and if such relief is incapable of valuation then the value of the immovable property computed in accordance with sub-Section (V), (VA) or (VB) of this section as the case may be....

7. It is contended that the reliefs for injunction were separate and independent reliefs and were not consequential to the declaratory reliefs (a) and (b). A consequential relief means a relief which necessarily flows from the principal relief sought. It is a relief which in the circumstances of the case cannot be allowed if the principal relief is refused--(see *Kalu Ram Vs. Babu Lal and Others*, and *Ram Chhabila v. Sat Narain* 1935 A.L.J.R. 1319.

8. The principal reliefs sought for in this case are two declarations that the plaintiff is the President of the institution, and that certain resolutions passed by the defendants party were void and ultra vires. The injunctions sought are merely further reliefs intended to prevent the other party from acting upon the said resolutions passed by them and to prevent defendant 2 from acting as the President, and also to prevent them from interfering with the plaintiff acting as President. These injunctions, therefore, are not independent reliefs, but necessarily flow from the declarations sought for in reliefs (a) and (b). They can be granted only if the title of the plaintiff to the declarations in reliefs (a) and (b) is established. They are therefore consequential reliefs. It may be that the plaintiff may choose to describe the declaration as one relief and the consequential relief as a separate relief. But the mere form in which the reliefs are claimed cannot determine the amount of court-fee payable under the Court-fees Act. Court-fee will be payable on the real nature of the relief claimed. The substance of the plaint will have to be looked into for that purpose. It is clear to us that the reliefs for injunction claimed in this case were consequential reliefs.

9. It is also argued that the words "relief sought" in the clause quoted above mean the "consequential relief", and as such, court fee will be payable on the

value mentioned in the plaint for that consequential relief, and so the value: given for the declaratory relief could not be taken into consideration. We think that the words "relief sought" in Section 7 (iv) do not refer to the consequential relief merely, but that they mean the relief sought as a whole, that is, the declaratory decree or order with the consequential relief. This view was taken in the case of Chief Inspector of Stamps Vs. L. Kedarnath Murarka and Others, by a learned single Judge of this Court, and we approve of the same.

10. It is then argued that the case falls under Proviso 1 to Section 7 (iv) (a). The suit relates to a school. It is alleged that the school owns immovable properties. When the plaintiff claims the relief that he may be declared to be the "President of the Tej Rarn George Coronation Hindu High School", he is, in substance, so run the argument, claiming a relief for the management of the immovable properties owned by the school. We see no force in this contention. The suit does not expressly or directly relate to any of the properties owned by the school. It refers to the personal right of the plaintiff to be the "President" of a juristic body called the Tej Ram George Coronation Hindu High School Association. It is a body registered under Act XXI [21] of 1860. The proviso to Section 7 (iv) (a) refers to reliefs sought with reference to immovable properties. This reference to immovable properties must be direct and express. If the relief sought in a suit indirectly affects certain immovable property, that would be no ground for applying the said proviso. We think that in the present suit no relief is sought with reference to any immovable property, and, as such, the proviso to Section 7 (iv) (a) does not apply at all.

11. It is next argued that even though this was a ease for declaratory relief coupled with a consequential relief, yet since the declaratory relief was not required to be valued separately and since the plaintiff has, in fact, put down a value to the consequential relief, he should be asked to pay court-fee on the valuation of the consequential relief alone and the value put down by him by mistake on the declaratory relief should be disregarded. We think that this" is another form of the argument which we have already considered. The true relief which is sought in the plaint is declaration plus an injunction. Both form one composite relief, though they have been put down as two reliefs. The valuation for this composite relief should have been given at one place, but the plaintiff has chosen to put it down at five different places. The true valuation, therefore, of what relief is claimed in the plaint would be the total amount of the five different reliefs put down in the plaint by the plaintiff. We think that the lower Court was right in holding that the plaintiff should pay court-fee on the valuation of Rs. 5100. The question may be looked at from another aspect. Sections, Suits Valuation Act, as amended for these Provinces, relates to suits other than those referred to in Section 4. Where in suits, other than those referred to in Section 4, court-fees are payable ad valorem under the Court-fees Act, 1870, the value as determinable for the computation of court-fees and the value for the purpose of jurisdiction shall be the same. Section 1, Suits Valuation Act, refers to suits relating to land or an interest in land of which the value has been determined by

rules made u/s 3. The present case is not one which falls u/s 4. This case, therefore, is governed by Section 8, Suits Valuation Act. Now the plaintiff deliberately valued this suit for the purpose of jurisdiction at a figure of us. 5100 obviously with the intention that the suit may be cognisable by a Civil Judge. He was, therefore, bound to put down the valuation for the purpose of the court-fee at the same figure, namely, Rs. 5100. It was for this reason that he valued the five reliefs for a total amount of Rs. 5100. In this view of the matter also the court-fee is payable on the whole amount of Rs. 5100.

12. We think that the view taken by the lower Court is correct. We dismiss the appeal with costs.