

(1978) 03 P&H CK 0024

In the Punjab And Haryana At Chandigarh

Case No : Civil Miscellaneous No. 250 C. I. of 1978 in First Appeal No. 1485 of 1977

Sant Ram

APPELLANT

Vs

Renu

RESPONDENT

Date of Decision : 02-03-1978

Acts Referred:

Court fees Act, 1870 — Section 7
Punjab Courts (Haryana Amendment) Act, 1977 — Section 2, 39
Punjab Courts Act, 1918 — Section 39, 39(1), 39(1A)
Suits Valuation Act, 1887 — Section 8

Citation : AIR 1978 P&H 267 : (1978) 2 ILR (P&H) 185

Hon'ble Judges : Rajendra Nath Mittal, J

Bench : Single Bench

Judgement

1. This application has been filed u/s 39 of the Punjab Courts Act as amended by the Punjab Courts (Haryana Amendment) Act, 1977(hereinafter referred to as the Amendment Act) for retransferring the appeal from the Court of Additional District Judge, Ambala, to this Court.

2. Briefly, the facts of the case are that a suit for recovery of Rs. 13, 618/-was instituted in the trial Court. It was prayed therein that the plaintiff be granted interest from the date of institution of the suit till the date of the decree. The plaintiff fixed the value of the suit for the purpose of Court--fee and jurisdiction as Rs. 13,620/-. The trial court decreed the suit for recovery of Rupees 13618/- and also for future interest at the rate of Rs. 12 per cent per annum from the date of suit till the date of realisation. The defendant filed an appeal to this Court wherein he paid the Court--fee on the amount of Rs. 13,618/-, the principal and Rs. 9656/-, the interest, which accrued from the date of the suit till the date of the filing of the appeal. At that time, the appeals relating to the decrees the jurisdiction value of which was more than Rs. 10,000/-were maintainable in the High Court.

Later on, by virtue of the Amendment Act the value for the purposes of appeal to

the High Court was increased from Rs. 10,000/-to Rs. 20,000/-. A provision was also made in the Amendment Act that all appeals pending in the High Court, the value of which did not exceed Rs. 20,000/-would stand transferred to the District Judge exercising ordinary territorial jurisdiction in such appeals. In view of the aforesaid clause, this Court transferred the appeal to the Court of District Judge, Ambala who in turn, transferred it for disposal to the Court of Additional District Judge, Ambala. This petition has been filed by the petitioner with a prayer that the appeal be retransferred to this Court as he had paid Court--fee in appeal on an amount of more than Rs. 20,000/-. The petition has been opposed by the respondent.

3. The only question that arises for determination in the present case is that if the plaintiff is granted future interest from the date of the suit till the date of realisation and in appeal the defendant is required to pay Court--fee on the amount of interest, whether the valuation of the suit for the purpose of jurisdiction is changed or not.

4. In order to decide this question, it will be necessary to refer to S. 8 of the Suits Valuation Act, 1887, and S. 2 of the Amendment Act by virtue of which, Section 39 was amended. The aforesaid sections read as under:--

Section 8 of Suits Valuation Act.

"Where in suits other than those referred to in the Court--fees Act, 1870, S. 7, Paragraphs V, VI and IX and Paragraph X, Cl.(d), 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 purpose of jurisdiction shall be the same."

Section 2 of Punjab Courts (Haryana Amendment) Act, 1977.

Amendment of Section 39 of Punjab Act 6 of 1918--For sub--section (1) of S. 39 of the Punjab Courts Act, 1918, the following sub--sections shall be substituted, namely:--

"(1) Save as aforesaid, an appeal from a decree or order of a Subordinate Judge shall lie--

(a) to the District Judge where the value of the original suit in which decree or order was made did not exceed twenty thousand rupees; and

(b) to the High Court in any other case.

(1A) All appeals pending in the High Court, the value of which does not exceed twenty thousand rupees, shall stand transferred to the District Judge exercising ordinary territorial jurisdiction in such appeals."

From a reading of S. 8 of the Suits Valuation Act, it is evident that the value of a suit for the purpose of jurisdiction in all types of suits except those falling under S. 7 paragraphs V, VI, and IX and X, Clause (d) of Court Fees Act shall be the

same as that for paying the Court--fee. In cases for recovery of money, the value for purpose of Court--fee is fixed on the amount claimed by the plaintiff. Consequently, the jurisdiction value of the suit for the purpose of jurisdiction is to be the same. For filing an appeal, the value of the original suit shall prevail in accordance with S. 39 of the Punjab Courts Act. Sub--section (1--A) of S. 39 provides that all appeals pending in the High Court, the value of which does not exceed twenty--thousand rupees, shall stand transferred to the District Judge exercising ordinary territorial jurisdiction in such appeals. This sub-section is to be read in conjunction with Sub--section (1).

Sub--section (1) specifically provides that an appeal from a decree of a Subordinate Judge shall lie to the District Judge where the value of the original suit did not exceed twenty thousand rupees and in other cases to the High Court. The same principle will apply, if an appeal pending in the High Court is to be transferred to the District Judge under sub--section (1A) of S. 39. After taking into consideration the language of sub--sections (1) and (1A), I am of the view that it is value of the suit for the purposes of jurisdiction in money suits, that will determine whether the appeal is to be retained by the High Court or to be sent to the District Judge even though the Court--fee in appeal has been paid by the appellant on the amount of more than Rs. 20,000/-.

5. In the above view, I am fortified by the observations of Calcutta High Court in *Sailendra Kumar Palit and Others Vs. Hari Charan Sadhukhan and Another*, . In that case, a suit was filed for recovery of Rs. 4477-2 annas. The suit was decreed for the aforesaid amount along with interest and costs. The amount of preliminary decree came to Rs. 6357-7 annas. A dispute arose whether the appeal was maintainable in the High Court or Court of District Judge. A Division Bench of that Court held that the value of the suit was to be taken to be the amount at which the claim was stated in the plaint. Similar view was taken by the Lahore High Court in *Tuman Singh v. Bija* AIR 1927 Lah 187 and *Mathura Das v. Jalal Din* AIR 1933 Lah 8.

6. The learned counsel for the petitioner has referred to *Goorooopersad Khoond v. Juggutchunder* 1859 8 I.A 166 and *Madan Mohan Prasad and Others Vs. Life Insurance Corporation of India and Others*, . In these cases the question that was being considered, was as to how the value of the subject matter for the purposes of appeal to the Privy Council/Supreme Court was to be reckoned. In my view, the ratio in them will not be applicable to the present case.

7. For the reasons recorded above, the petition fails and the same is dismissed with costs. Counsel fee Rs. 50/-.

8. Petition dismissed.