

(1986) 04 MAD CK 0031
In the Madras High Court

Selvakumar Rice and Oil Mills

APPELLANT

Vs

Tamil Nadu Electricity Board and Another

RESPONDENT

Date of Decision : 27-04-1986

Acts Referred:

Citation : (1987) 1 MLJ 32

Hon'ble Judges : T.N. Singaravelu, J

Bench : Division Bench

Judgement

T.N. Singaravelu, J.—The plaintiff in the suit is the revision petitioner. He filed the suit against the Electricity Board for a declaration that the application of tariff code mentioned in the plaint is arbitrary, illegal and ultra vires and for an injunction restraining the defendants. Board from collection the amount. The plaintiff valued the suit u/s 25(d) of the Court-fees Act, and a court-fee of Rs. 30.50 wits paid on each of the two reliefs. On objection, the lower Court took up the issue of court-fee as a preliminary issue and held that the plaintiff is bound to pay the court fees for the amount which he wants to save by filing the suit, in other words the plaintiff was directed to pay the court-fee on the bill amount of Rs. 5,000 and odd. The plaintiff is aggrieved and he has come forward with this revision.

2. I have heard Learned Counsel for both sides. This suit is for a declaratory relief not covered by Section 25(a), (b) or (c), of the Act. The consequential relief of injunction is not with reference to immovable property and hence Section 25(b) will not apply. No relief of declaration is sought for in respect of title to any immovable property. Only the mode of classification of the plaintiff's service for purposes of levying current consumption charges is sought to be declared as ultra vires. The relief claimed in this case clearly falls within the ambit of Section 25(d) of the Court Fees Act, which clearly lays down that in cases falling under this provision it is open to the plaintiff to give any notional valuation subject to minimum of Rs. 400 prescribed therein. When the Act itself permits adoption of a notional value, irrespective of the fact whether the relief is

capable of valuation or not, it cannot be said that the plaintiff has camouflaged the real relief and has paid a lesser court fee. Hence, the decision reported in Mahaveerchand Vs. Town Panchayat, , and relied on by the lower Court will not apply to this case.

3. The result is the court fee paid by the plaintiff is correct and the order of the lower Court with reference to the Court fee is set aside. This civil revision petition is allowed. No costs.