
(1993) 11 MP CK 0031
In the Madhya Pradesh High Court
Case No : C.R. No. 93 of 1993

Smt. Anita Devi Tomar

APPELLANT

Vs

Havel Singh Arora

RESPONDENT

Date of Decision : 09-11-1993

Acts Referred:

Court Fees Act, 1870 — Section 3, 35, 4, 6, 7

Citation : (1994) 1 MPJR 135

Hon'ble Judges : R.C. Lahoti, J

Bench : Single Bench

Final Decision : Allowed

Judgement

R.C. Lahoti, J.

A woman plaintiff has been deprived of the benefit of the State notification exempting her from payment of Court-fees and hence she has come up in revision.

The plaintiff has filed a suit for recovery of Rs. 1,76,000/- She is a woman. She claims that her annual income immediately preceding the date of presentation of the plaint from all sources does not exceed Rs. 6,000/- and as such she is exempted from payment of Court-fees.

The State Notification, the relevant part thereof, reads as under:

Notification F. No. 9-1-83-B-XXI, dated the 1st April, 1983. -In exercise of the powers conferred by section 35 of the Court Fees Act, 1870 (No. 7 of 1870), the State Government hereby remits in the whole of the State of Madhya Pradesh, the Court fees mentioned in Articles 1A and 2 of the first schedule and Articles 5, 17 and 21 of the second schedule to the said Act payable on plaint by the following categories of persons whose annual income immediately preceding the date of presentation of plaint from all sources does not exceed rupees six thousand, namely, -

(i).....

(ii).....

(iii).....

(iv) women;

In the opinion of the trial court, the Court fees on the plaint is payable u/s 7 (i) which provision is not referred to in the state notification and hence the benefit thereof is not available to the plaintiffs tiling such plaint as are taxable with Court-fee u/s 7 though they may be of the categories of persons referred to in the State notification.

It will be useful to extracr and reproduce Sections 6, 7 (i) and Schedule I, Article 1 -A for the purpose of ready reference:

6. Fees on documents filed, etc. in Mufassal Courts or in public offices. - Except in the Court hereinbefore mentioned, no document of any of the kinds specified as chargeable in the first or second schedule to this Act annexed shall be filed, exhibited or recorded in any Court of Justice, or shall be received or furnished by any public officer, unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the said schedules as the proper fee for such document.

Computation of fees payable in certain suits. - The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows : -

(i) for money. - in suits for money (including suits for damages or compensation, or arrears of maintenance, of annuities, or of other sums payable periodically) - according to the amount claimed:

SCHEDULE I

Ad Valorem Fees Number Proper Fee

1-A. Plaint, written statment

pleading a set-off or

counter claim or memorandum of appeal

(not otherwise provided for in this Act) presented

to any Civil or Revenue

Court except those

mentioned in section 3.

A perusal of the scheme of the Court Fees Act indicates that sections 3, 4 and 6 are the charging provisions which are to be read with Schedules I & II. Section 3 relates to levy of fees in High Courts on their original side and Presidency Small

Cause Courts. Section 4 speaks of levy of fees on documents filed etc. in High Courts in their different jurisdictions. Section 6 makes the provision for levying Court-fees on documents (including plaints) filed etc. in Mufassal Courts or in public offices. Sections 7 and 8 are merely machinery provisions laying down the manner of computing the Court-fees payable. Section 7 is not a charging Section nor does it make provision for levying of Court-fees.

It merely speaks of computation. The charging sections have to be read with Schedules I & II. It therefore, follows that whenever the appropriate Government would exercise its powers to reduce or remit payment of Court-fees u/s 35 of the Act it would do so generally or by reference to the provisions of sections 3, 4 and 6 and/or schedules appended to the Act.

Court-fee in a simply money suit is payable because of section 6 of the Act as prescribed by Schedule I, Article 1 -A to be computed in accordance with section 7 (i) . If the State notification u/s 35 of the Act refers to Schedule 1. Article a -A. the Court-fees payable thereunder would stand remitted and there would be no question or computing the same by reference to section 7.

The trial court was not therefore, right in taking the view which it has taken. The State notification is applicable to the suit filed by the plaintiff.

For the foregoing reasons, the revision is allowed. The impugned order is set aside. The trial court is directed to proceed to make an inquiry into the entitlement of the plaintiff by determining whether her annual income immediately preceding the date of presentation of the plaint from all sources did not exceed Rs. 6,000/-. No order as to the costs of this revision.