

(1957) 01 PAT CK 0007
In the Patna High Court
Case No : Civil Rev. No. 748 of 1954

Tewari Singh and Others

APPELLANT

Vs

Gaya Prasad Sah and Others

RESPONDENT

Date of Decision : 17-01-1957

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 7 Rule 11, Order 7 Rule 38, 115
Court Fees Act, 1870 — Section 12, 12(1), 7

Citation : AIR 1957 Patna 450 : (1957) 5 BLJR 173

Hon'ble Judges : Sinha, J;Dayal, J

Bench : Division Bench

Advocate : Sidheshwar Prasad Singh and Anirudh Prasad Sinha, for the Appellant; A.S. Sinha, for the Respondent

Final Decision : Dismissed

Judgement

Sinha, J.—This application has been presented to this Court by defendants Nos. 2 to 4 to an action for declaration of title to and recovery of possession of certain property and is directed against the order of the Court below, holding that the court-fee paid is sufficient and that the valuation given by the plaintiff in the plaint on the subject-matter in dispute is not an unreasonable valuation.

2. A few facts in brief may be necessary. The plaintiff brought the suit on the allegation that, during his minority, defendant No. 1, who was his brother-in-law was looking after the management of the properties and that defendant No. 1 auction-purchased the properties in suit belonging to the plaintiff in "execution of a decree obtained in a suit, which had been collusively brought by the plaintiff and the defendant, and, thereafter, the defendant sold the properties to different defendants by different Sale-deeds. The suit has been valued at Rs. 4,575, which is the total of the considerations mentioned in the several sale deeds in favour of the different defendants.

3. The defendants raised the question that the property was not properly valued and the real value of the property would be not in thousands but in lacs. Ample

time was given to the parties, the defendants produced no evidence but the plaintiff did produce some evidence in the form of documents and, after a careful consideration of the materials placed before the Court, the Court came to the conclusion, as already stated, that the valuation given by the plaintiff was a reasonable one and that the court-fee paid was sufficient.

4. In support of the application, Mr. Singh contends that, by putting the valuation at Rs. 4,575, the defendants will be prejudiced in future if they lose the suit in the Court below because the appeal against the decree passed in the suit will lie to the District Court and not to the High Court and, then again, if the occasion arises for filing an appeal to the Supreme Court, they will again be prejudiced on account of low valuation.

5. In my judgment, in this case, when the Court below has decided that the valuation is a reasonable one as put by the plaintiff in the plaint and that the court-fee paid is sufficient, the defendants are out of Court and this Court cannot interfere in revision with the orders passed by the Court below in regard to valuation. Section 7(iv)(c) of the Court-fees Act enables a plaintiff to value the relief sought in the plaint. If the value of the relief sought, upon the decisions of this Court as well as other Courts, is not unreasonable or arbitrary, the Court has got no jurisdiction to alter the valuation put in the plaint and ask the plaintiff to amend the plaint and pay court-fee upon the amended valuation. If, on the other hand, the Court below is of the opinion that the valuation given in the plaint u/s 7(iv)(c) of the Court-fees Act, is unreasonable or arbitrary, then in that case, the Court is empowered to revise the valuation put by the plaintiff and to fix a right value, and, if the Court has got jurisdiction to put its own valuation, it must do so upon evidence as to the value of the property, in suit. In the present case, the court has held that the value given by the plaintiff in the plaint is a reasonable valuation. No question, therefore, arises for the Court to interfere with that valuation. It was held, as long ago as 1938 in the Full Bench case of Ramkhelawan Sahu Vs. Bir Surendra Sahi and Others, that, if the question of valuation and court-fee is decided against the plaintiff, the plaintiff can come up in revision against that order but, if the valuation and court-fee matter is decided in favour of the plaintiff, then the defendant cannot come up in revision and this Court will not interfere with the order of the Court below inasmuch as the matter of court-fee is not between the plaintiff and the defendant but is a matter between the State and the plaintiff.

The Full Bench authority, binds us and the defendants cannot be allowed to raise the question of court-fee in an application in revision. Mr. Singh, however, has cited some authorities but, as most of them are not in point, I do not propose to refer to all of them except to the case of Jadunandan Gope v. Syed Najmuzzaman 1957 B.L.J.R. 38 (B). In that case, their Lordships interfered in revision but on this finding that the valuation given by the plaintiff in the plaint was an arbitrary valuation because it was found in that case that the plaintiffs themselves had acquired the property for Rs. 5,000 and they had valued the suit

property at Rs. 200 in one case and Rs. 100 in the other case, and their Lordships further held that, if the Court found that the valuation given by the plaintiff was insufficient and arbitrary, it is empowered to revise the valuation put by the plaintiff and to fix a right value and, in fixing the right valuation, the market value of the property in suit has to be taken into account.

If the Court finds that the valuation given by the plaintiff is not arbitrary or unreasonable, it must be the end of the matter. If, on the other hand, the court finds that the valuation given by the plaintiff is either unreasonable or arbitrary, then the court has got jurisdiction to fix a right value of the property in suit and, for determination of the proper value of the property reference has to be made to the market price of the property in suit. That case: is no authority for the proposition that the Court would interfere in every case in regard to valuation and court-fee matter. Section 12 of the Court- fees Act provides:

"(1) Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this chapter on a plaint or memorandum of appeal shall be decided by the Court in which such plaint or memorandum, as the case may be, is filed, and such decision shall be final as between the parties to the suit.

* * * * *

This provision also supports the view which I have taken that, in cases of valuation for the purpose of determining the court-fee chargeable the matter is for the court to decide in which that is raised. This Court cannot, therefore, interfere with the order of the Court below, specially, because this Court finds that the valuation given by the plaintiff in the plaint is not either unreasonable or arbitrary inasmuch as the Valuation has been fixed with reference: to the sale-deeds by which the properties in suit were attempted to be transferred to different defendants.

6. In my judgment, the fact that the first appeal would lie to the District Court and not to the High Court is of no importance at all. The right of appeal is not denied to the parties and it does not matter whether the appeal is heard by the High Court or by the District Court. The other submission that, in case the defendants have got to go up in appeal to the Supreme Court, they will be put to disadvantage because of the valuation put in the plaint does not appeal to me in the least. The matter of valuation of the properties in suit has been decided for the purpose of the court-fee and, in my opinion, no prejudice is likely to be caused to the parties in this regard at any future time.

7. In the result, I would discharge the rule and dismiss this application with costs: hearing fee Rs. 50/-.

Dayal, J.

8. I agree.