

The Andhra Pradesh State Electricity Board, Hyderabad and another RESPONDENT

Final Decision : Allowed

2. The defendants preferred an appeal in respect of fifteen service connections

set out in the memorandum of grounds of appeal.

3. An objection was raised in the lower appellate Court with regard to the valuation of the subject matter of the appeal and the suit. By order dated 31-12-1973 the lower court directed the appellants to value the service connections separately and pay the requisite court-fee thereon. The defendants accordingly revised the valuation of the subject-matter of the appeal and fixed the same at Rs. 7,610-80 p. and a deficit court-fee of Rs. 824-50 p. was paid on 24-1-1974 and the appeal numbered as A.S. No. 28 of 1974 on 18-2-1974. When the appeal came up for hearing, it was argued on behalf of the defendants that in view of the revised valuation of the appeal, the suit was beyond the pecuniary jurisdiction of the learned District Munsif as the jurisdiction of the District Munsif under the Old Civil Courts Act was Rs. 5,000/- and, therefore the learned District Munsif had no pecuniary jurisdiction to entertain the suit and the judgment and decree of the trial court were devoid of jurisdiction and they should be set aside and the plaint returned for presentation to proper Court.

4. It was argued on behalf of the plaintiffs that the District Court could not entertain the appeal as the jurisdiction of the District Court under the old Civil Courts Act was Rs. 7,500/- only in respect of appeals arising out of suits instituted prior to 1-11-1972 and that the proper course would be to return the memorandum of grounds of appeal to the defendants who were the appellants in that appeal, for presentation of the same to the High Court. But the learned District Judge held that u/s 107 C.P.C. the appellate Court has the same powers and shall perform as nearly as may be the same duties as are conferred and imposed by the Code on courts of original jurisdiction in respect of suits instituted therein and that the appellate court could, therefore, exercise the powers conferred on the trial court to return the plaint under Order 7 Rule 10 C.P.C. and accordingly directed the return of the plaint to the plaintiff for presentation to a proper court.

5. In this appeal, Sri C. Trivikrama Rao, the learned counsel for the appellant, contends that in view of the revised valuation of the appeal at Rs. 7610-80 p. the District Court had no jurisdiction to entertain the appeal and therefore, it could not have passed any orders setting aside the judgment and decree of the trial court and directing the return of the plaint nor could it have passed any order with regard to the costs; and all that the District Court could do was only to direct the return of the memorandum of grounds of appeal to the appellants in the lower court for presentation of the said memorandum of grounds of appeal to the proper Court.

6. But it is contended by the learned counsel for the respondents that the appeal as originally valued and presented in the District Court was within the pecuniary jurisdiction of the District Court and, therefore, it could properly entertain the appeal and the fact that subsequently the valuation was revised so as to take it out of its jurisdiction would not in any way affect the appellate Court's power to exercise u/s 107 C.P.C. the powers of the trial court with regard to the return of

the plaint. I am afraid I cannot agree with this submission. Though the appeal as valued at the time of presentation, was within the jurisdiction of the lower court the appeal could not properly be entertained and disposed of by the appellate court after the revision of the valuation. The only course open to the appellate Court was to direct the return of the memorandum of grounds of appeal to the appellants in the appeal in the District Court for presentation to the proper Court. If the appeal was beyond its pecuniary jurisdiction, the appellate Court could not have given any direction with regard to the return of the plaint or with regard to costs. Any direction given by the appellate Court in such an appeal would be devoid of jurisdiction. The contention of the learned counsel for the appellant in this appeal that the direction given by the lower court for return of the plaint to the plaintiff and the further direction that the costs of the appeal shall abide the result of the suit, if prosecuted, are clearly without jurisdiction.

7. In the result, the judgment and decree dated 19-7-1975 in A.S. No. 27/74 on the file of the Court of the District Court, Guntur are set aside and the appeal remanded to the lower court. The (Memorandum of grounds of appeal in A.S. No. 28 of 1974 will be returned by the District Court to the appellants in the said appeal, for presentation to the proper court. The appeal is accordingly allowed, but in the circumstances, there will be no order as to costs here and in the court below.