
(1978) 11 AP CK 0004

In the Andhra Pradesh High Court

Case No : S.R. No. 27893 of 1978 and CMPS No. 4223/78

Uppalapati Venkata Ratnam

APPELLANT

Vs

Meka Venkata Sravanthi Devi and others

RESPONDENT

Date of Decision : 08-11-1978

Acts Referred:

Citation : (1978) 11 AP CK 0004

Hon'ble Judges : Jeevan Reddy, J

Bench : Single Bench

Advocate : P.V.R. Sharma, for the Appellant;

Judgement

Mr. Jeevan Reddy, J.—1st defendant is the appellant. In a suit for possession he claimed that he is entitled to be compensated for the improvements made by him over the property. That claim was negatived. The present appeal is preferred contending that a condition should be imposed in the trial court's decree that it shall be executable only on payment of a sum of Rs. 48,000/- to the appellant (first defendant) towards the said improvements. The Appellant has valued the appeal u/s 47, which is a residuary section, and whereunder court fee is payable at a fixed rate but slab-wise. The office has taken an objection that the amount claimed herein is in the nature of a setoff or counter-claim and, therefore the court-fee on the ad valorem basis should be paid. Learned Counsel for the appellant has relied upon the decisions of the Madras High Court in T.A.M. Subramania Chettiar Vs. K.M. Shanmugham and Others, and Appaeswari vs. P. S. Ramanatheswara AIR 1961 Mad. 527 to contend that such a plea in the written statement does not amount to a counter claim or set-off and, therefore, no court-fee is payable on that basis, It may be so; but the position here is entirely different Here is an appeal wherein the appellant is claiming that certain amount should be held to be due to him and that, the decree in favour of she plaintiff should be reduced by that amount.

2. The appellant is asking for compensation for the improvements made by him. I see no reason why such a type of claim should not fall u/s 20, which reads as

follows :--

In a suit for money (including a suit for damage, or compensation, or arrears of maintenance, of annuities, or other sums payable periodically), fee shall be computed on the amount claimed.

Now as I have stated above, the appellant is claiming compensation for improvements made by him. It is true that he is not a plaintiff, but in appeal he has to pay the same court-fee which the plaintiff would have paid if he had claimed this amount in the suit. The matter can be examined from this angle; suppose, a suit is filed stating that the defendant is not entitled to possession of land unless he compensates for the improvements made by the plaintiff; then, in such a suit the plaintiff would have to pay court-fee the value of improvements, as assessed by him. I am, therefore, of the opinion that Section 20 of the Act is applicable to this case and, for that reason, the residuary clause in Section 47 is not attracted. The appellant shall, therefore, pay the court-fee on ad valorem basis u/s 29. Time for payment of court-fee; One month.