

B.S. Suresh Vs. B.S. Jagadish

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Court : Karnataka

Decided On : Oct-06-1988

Reported in : ILR1989KAR1249

Judge : Chandrakantaraj Urs, J.

Acts : Karnataka Court Fees and Suits Valuation Act, 1958 - Sections 33 and 50

Appeal No. : C.R.P. No. 985 of 1988

Appellant : B.S. Suresh

Respondent : B.S. Jagadish

Advocate for Def. : S. Ramaswamy Iyengar, Adv. for Respondent 1

Advocate for Pet/Ap. : K.S. Setlur, Adv.

Disposition : Revision allowed

Judgement :

Chandrakantaraj Urs, J.

1. This matter has come up for admission after notice.

2. This is a revision petition filed under Section 115 of the Code of Civil Procedure against the order dated 3-2-1988 made by the Civil Judge, Chickmagalur, in

Original Suit No. -- of 1988. The order came to be passed on the office objection that the suit was not properly valued.

3. The petitioners - plaintiffs filed suit against the respondents - defendants for rendering accounts in respect of the income from three bits of coffee estates left in the management of the defendants for convenience having obtained the said coffee estates to their share under a registered partition deed. The petitioners have stated that the value of the suit for the purpose of Court fee and jurisdiction was as given in the valuation slip enclosed alongwith the plaint. In the valuation slip, the following is stated:

'The suit is for rendition of accounts of the income in the suit land payable to plaintiffs and for a decree on the sums found due. The plaintiffs tentatively estimate the amount at Rs. 8,500/- and has paid Court fee of Rs. 850/-thereon. The plaintiffs undertake to pay the Court fee on the actual amount found due after determination of the amount by Court as per Section 33 of the Court Fee Act. The suit is also for the grant of injunction, restraining the defendants from obstructing the plaintiffs from the use of the common facilities. The plaintiffs have valued the relief at Rs. 1000/-and paid Court fee of Rs. 100/- thereon under Section 26 of C.F. Act. The suit is also for grant of injunction against defendants 2 and 3 preventing them from interfering with the activities of plaintiffs at Bangalore. The plaintiffs have valued the suit for Rs. 100/-and paid Court fee of Rs. 100/- thereon. A total Court fee of Rs. 1000/- is paid.'

4. After hearing the learned Counsel for the plaintiffs, the office objection was upheld and the learned Civil Judge directed that Court fee should be paid on a proper estimate made and Rs. 8,500/- estimated was arbitrary and inadequate. He found fault with the petitioners that the value shown of the immovable properties from which income was derived at two lakhs of rupees to be inadequate and he further held that in terms of Section 50 of the Karnataka Court Fees and Suits Valuation Act they could not give two valuations, one for the purpose of the reliefs and another for the purpose of jurisdiction.

5. In this Court Mr. Setlur, learned Counsel appearing for the petitioners - plaintiffs, has contended that the trial Court completely misdirected itself in holding that the

plaintiffs could not give two valuations separately, one for the purpose of reliefs and another for the purpose of jurisdiction and the direction that the value should be on the basis of the market value of the properties was not tenable in law. It is further contended that Section 50 has not been properly understood by the Court below.

6. In this Court Mr. Ramaswamy Iyengar, learned Counsel appearing for the respondents, has contended that the lower Court's order must be sustained having regard to the fact that Rs. 8,500/- is grossly inadequate estimate in order to avoid payment of Court fee having regard to the fact that from 1984-85 the income shown from the lands in question is in excess of Rs. 1,40,000/-and therefore there ought to have been a proper estimate and in any event the estimate made in the valuation slip does not amount to proper pleading, as no such estimate is made in the plaint.

7. I do not think this Court should countenance the arguments advanced for respondents. In the case of **COMMERCIAL AVIATION AND TRAVEL COMPANY AND ORS. v. Mrs. VIMLA PANNALAL** : AIR 1988 SC1636 it has been ruled that Ordinarily, it is not possible for the Court at a preliminary stage to determine the value of the relief in a suit for accounts simpliciter. If the Court is itself unable to say what the correct valuation of the relief is, it cannot require the plaintiff to correct the valuation that has been made by him. Indeed, in a suit for accounts it is also difficult for the Court to come to a finding even as to the approximate correct valuation of the relief. In such a case, the Court has no other alternative than to accept plaintiff's valuation tentatively. Of course, when there is an objective standard of valuation, to put a valuation on the reliefignoring such objective standard, might be a demonstratively arbitrary and unreasonable valuation and the Court would be entitled to interfere in the matter.

8. Having regard to the above decision, Rs. 8,500/-estimated as earlier extracted from the valuation slip, with an undertaking to pay the deficit Court fee if any after the exact amount is determined by the Court after evidence, the trial Court should have accepted the tentative valuation and it should not have found fault with the valuation in regard to the relief of injunction prayed for. The Court has only found

fault with the valuation of the immovable property.

9. Section 50 of the Karnataka Court Fees and Suits Valuation Act is as follows:

'Suits not otherwise provided for. -- (1) In a suit as to whose value for the purpose of determining the jurisdiction of Courts, specific provision is not otherwise made in this Act or in any other law, value for that purpose and value for the purpose of computing the fee payable under this Act shall be the same:

Provided that notwithstanding anything contained in Sub-section (2) of Section 7, the value of land specified in Clause (a), (b) or (c) of the said sub-section shall, for purposes of determining the jurisdiction of Courts, be the market value of such land.(2) In a suit where fee is payable under this Act at a fixed rate, the value for the purpose of determining the jurisdiction of Courts shall be the market value or where it is not possible to estimate it at a money value such amount as the plaintiff shall state in the plaint.'

From Section 50, it is clear that there is no prohibition to value the suit for the purpose of jurisdiction and for the purpose of relief differently. What is contemplated under Section 50 is that the fee payable shall be the same both for the purpose of jurisdiction as well as for the purpose of relief. If relief cannot be valued at the present stage as in the instant case in respect of suits under Section 33 of the Karnataka Court Fees and Suits Valuation Act, the valuation made for the purpose of jurisdiction on the basis of the market value of the immovable property in question is solely for the purpose of jurisdiction to grant the relief. If it is found that the amount due is far less than what normally would be the pecuniary jurisdiction of the Court of the Civil Judge, then there would be no initial want of jurisdiction as that Court has jurisdiction for determining questions involving unlimited claims in regard to money.

10. In that view of the matter, the Court should at this stage accept the valuation as set out in the plaint (valuation slip) and determine the question as to the amount due after accounts before decree is drawn up.

11. With these observations the revision is allowed. The order under revision is set aside.

12. The trial Court shall proceed with the suit in the light of the observations made above.

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