

**Biliyanappa Vs. Danappa**

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**Court :** Karnataka

**Decided On :** Jun-26-1990

**Reported in :** ILR1990KAR3764; 1990(2)KarLJ255

**Judge :** Venkatachala and ;Murlidher Rao, JJ.

**Acts :** Karnataka Civil Courts Laws (Amendment) Act, 1989 - Sections 4(1);  
Karnataka Court Fees and Suits Valuation Act, 1958 - Sections 16, 19 and 50

**Appeal No. :** R.F.A. No. 392 of 1986

**Appellant :** Biliyanappa

**Respondent :** Danappa

**Advocate for Def. :** Jayakumar S. Patil and ;S.K. Kulkarni, Adv. for R-1 to R-6

**Advocate for Pet/Ap. :** K.S. Savanur, Adv.

**Judgement :**

ORDER

**Venkatachala, J.**

1. The short point for decision is, whether this appeal from the decree dated 1-2-1986 passed by the Civil Judge at Bijapur in Original Suit No. 108 of 1980 pending before the High Court has stood transferred to the District Court at Bijapur under

clause (c) of Sub-section (1) of Section 4 of the Karnataka Civil Courts Law (Amendment) Act, 1989 (for short 'the Amendment Act') on 17-4-1989, the date of commencement of the Amendment Act.

2. Clause (c) of Sub-section (1) of Section 4 of the Amendment Act, which is of materiality for deciding the said point, reads:-

'(c) appeals and proceedings connected therewith pending before the High Court from decrees and orders passed by a Civil Judge in original suits or proceedings of a civil nature the amount or value of the subject matter of which is less than one lakh rupees shall, on the date of commencement of this Act, stand transferred to the District Court and shall be disposed of by such Courts in accordance with law as if such appeals or proceedings had been preferred to such Court.'

If an appeal before the High Court has to be regarded as having stood transferred to a District Court on the date of commencement of the Amendment Act under the above clause, the requisites to be satisfied are:

(i) It must be an appeal from a decree in a original suit or order in a proceeding of a civil nature passed by the Civil Judge;

(ii) The amount or value of the subject matter of such original suit or proceeding of a civil nature must have been less than one lakh rupees.

3. The instant appeal being that preferred against the decree of the Civil Judge, it satisfies requisite (i) above, was not doubted. But, when it came to the question of the instant appeal satisfying requisite (ii) above, a doubt being raised whether the amount or value of the subject matter of the original suit or proceeding of a civil nature referred to therein is that taken for the purpose of computing the Court fee payable under the Karnataka Court Fees and Suits Valuation Act, 1958, or that taken for determining the pecuniary jurisdiction of the Court of Civil Judge, we had to hear the learned Government Advocate in the matter.

4. The learned Government Advocate did not disagree with other learned Counsel appearing for parties in the instant appeal, and very rightly, that the amount or value of the subject matter of the original suit or the proceeding of a civil nature

could be one thing for the purpose of computing Court fee payable thereon under the Court Fees Act and another thing for the purpose of determining the pecuniary jurisdiction of the Court under the Karnataka Civil Courts Act, 1964 (for short 'the Civil Courts Act'), though it may be the same for both purposes, at times. But, he argued that the amount or value of the subject matter of the original suit or proceeding of civil nature, envisaged in clause (c) of Sub-section (1) of Section 4 of the Amendment Act cannot be anything but amount or value of the subject matter to be taken for the purpose of determining the pecuniary jurisdiction of the Court, in which such suit or proceeding has to be instituted, by inviting our attention to the material provisions of the Civil Courts Act as amended by the Amendment Act and the Court Fees Act, which read:

Section 16 of the Civil Courts Act, as amended:

'16. Jurisdiction of Civil Judge -

The jurisdiction of the Court of a Civil Judge shall extend to all original suits and proceedings of civil nature.'

Section 19 of the Civil Courts Act, as amended:

'19. Appeals from Civil Judge -

Appeals from the decrees and orders passed by a Civil Judge in original suit and proceedings of a civil nature, shall when such appeals are allowed by law, lie, -

(1) to the District Court, when the amount or value of the subject matter of the original suit or proceeding is less than one lakh rupees;

(2) to the High Court, in other cases.'

Section 50 of the Court Fees Act: '

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 clauses (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.'

5. As an analysis of Section 50 of the Court Fees Act could be of assistance for proper understanding of the provisions of the Civil Courts Act adverted to earlier, we proceed accordingly.

Sub-section (1) of Section 50 declares that value of a suit for the purpose of determining the jurisdiction of Court, in the absence of any specific provision in the Act or any other law, and for the purpose of computing the fee payable under the Act, shall be the same. Then, proviso to Sub-section (1) makes it clear that value of land provided in clauses (a), (b) or (c) of Sub-section (2) of Section 7 of the Act while is for the purpose of computation of Court fee, the value of such land for the purpose of determining the jurisdiction of the Court would be its market value. Coming to Sub-section (2), it declares that where fee payable in a suit is fixed Court fee according to the Act, the value of such suit for the purpose of determining the jurisdiction of the Court shall be the market value of its subject matter or where it is not possible to estimate such market value, such value as the plaintiff shall state in the plaint.

6. Now, if Section 16 and Section 19 of the Civil Courts Act are seen together in the light of the said analysis of Section 50 of the Court Fees Act, it becomes obvious that the amount or value of the subject matter of a original suit or proceeding of a civil nature found in Sub-section (1) of Section 19 relates to such amount or value of the subject matter meant for determining the pecuniary

jurisdiction of the Court and not that meant for computing the Court fee payable thereon under the Court Fees Act. Thus, when the amount or value of the subject matter of a original suit or proceeding of a civil nature under Sub-section (1) of Section 19 of the Civil Courts Act is the amount or value of the subject matter of such suit or proceeding meant for the purpose of determining the pecuniary jurisdiction of the Court in which any of them has to be instituted, the amount or value of the subject matter of a original suit or proceeding of civil nature found in clause (c) of Sub-section (1) of Section 4 of the Amendment Act has to be regarded as that meant for the purpose of determining the pecuniary jurisdiction of the Court, in which such suit or proceeding lies and not that meant for the purpose of computing the Court fee under the Court Fees Act. We hold accordingly.

7. The amount or value of the subject matter of the original suit, the decree of which is appealed against in the instant appeal, is Rs. 1,38,000/- as found from the valuation slip produced along with the plaint in the suit. Such amount or value not being less than one lakh rupees, the instant appeal cannot be regarded as one which has stood transferred from the High Court to District Court. Hence, the appeal continues to be pending before the High Court. Consequently, we direct the appellant to file the Print List and deposit the typing charges needed in the preparation of Paper Book of the appeal, within four weeks from today.

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