

Chand Bal Vs. Kamal Kumar

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Court : Delhi

Decided On : May-26-1998

Reported in : 1998IVAD(Delhi)429; 73(1998)DLT631

Judge : J.B. Goel, J.

Acts : Courts Fees Act, 1870 - Sections 7; [Suits Valuation Act, 1887](#) - Sections 8; [Code of Civil Procedure \(CPC\), 1908](#) - Sections 15

Appeal No. : S.No. 1043 of 1998

Appellant : Chand Bal

Respondent : Kamal Kumar

Advocate for Pet/Ap. : Mr. R.L. Kohli and; Ms. Ashima Gupta, Advs

Judgement :

J.B. Goel, J.

1. I have heard learned Counsel for the plaintiff on the question whether the suit has been properly valued for purposes of Court fee and jurisdiction at the admission stage.

2. The case is that late Shri Des Raj was a tenant in respect of shop No. 2372, Chuna Mandi, Paharganj at a monthly rent of Rs. 22/- under deceased Shri

Makhan Lal and defendants 1 and 2 as his sons. Shri Des Raj died as a contractual tenant and the tenancy was inherited by the plaintiffs as tenants. It is alleged that Shri Makhan Lal filed petition for eviction. That petition was dismissed on 21.4.1998.

3. Defendants No. 1 and 2 are alleged to have sold the said property to defendant No.3 who is threatening to illegally dispossess the plaintiffs from the suit premises and accordingly the plaintiffs have filed this suit for perpetual injunction restraining the defendants from so dispossessing the plaintiffs.

4. The suit for purposes of Court fee and jurisdiction has been valued at Rs. 5,05,000/-. I have heard learned Counsel for the plaintiff about this valuation and under which provision the suit has been valued. Learned Counsel contended that the suit has been valued under Section 7 of the Court Fees Act under which the plaintiff could value the suit for injunction at whatever value he considered proper. Sub-clause (d) of Clause (iv) of Section 7 of the Court Fees Act reads as under:

'7. The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:

(i) (ii)

(iii) (iv) In suits.

(a) (b) (c)

(d) to obtain an injunction.

(e)

(f)'

In all such suits the plaintiff shall state the amount at which he values the relief sought:

[Provided that the minimum Court fee in each case shall be 13 (thirteen) rupees]

The Supreme Court in *M/s. Commercial Aviation & Travel Company & Others Vs . Mrs. Vimla Pannalal*, : AIR 1988 SC1636 after referring to various decisions has observed that the plaintiff cannot whimsically choose a ridiculous figure for filing the suit most arbitrarily where there are positive materials and/or objective standards of valuation of the relief appearing on the face of the plaint and where there are objective standards of valuation, or in other words, the plaintiff or the Court can reasonably value the relief correctly on certain definite and positive materials, the plaintiff will not be permitted to put an arbitrary valuation de hors such objective standards or materials. Inter alia, reference has been made to the case of *Tara Devi Vs . Sri Thakur Radha Krishna Maharaj*, : AIR 1987 SC2085 , where it has been laid down that in a suit for declaration with consequential relief falling under Section (iv)(c) of the Court Fees Act, the plaintiff is free to make his own estimation of the relief sought in the plaint and such valuation both for purposes of Court fee and jurisdiction has to be ordinarily accepted; it is only in cases where it appears to the Court on a consideration of the facts and circumstances of the case that the valuation is arbitrary, unreasonable and the plaint has been demonstratively undervalued, the Court can examine the valuation and can revise the same. In that case, the plaintiff had valued the leasehold interest on the basis of the rent and such valuation was held to be reasonable and not demonstratively arbitrary.

5. The question is whether there are objective standards or material available for valuation of the suit in the present case. Plaintiff claims to be tenant and alleges threat of dispossession. Had the plaintiff been dispossessed, he would have been entitled to recover the possession and for that purpose the suit would be valued under Sub-clause (e) of Clause (xi) of Section 7 of the Court Fees Act which reads as under:

(ix) In the following suits between landlord and tenant:

(a)

(b)

(c)

(d)

(e) to recover the occupancy of [immovable property) from which a tenant has been illegally ejected by the landlord, and

(f)

according to the amount of the rent of the [immovable property] to which the suit refers payable for the year next before the date of presenting the plaint.'

6. According to this provision, the suit could be valued for the purposes of possession at 12 months' rent preceding the date of presenting the plaint. On that basis, the total value would amount to Rs. 264/-. Under Section 8 of the [Suits Valuation Act, 1887](#), this would also be the value of the suit for purposes of jurisdiction. These are the objective standards available for assessing the ratable value in this suit and the suit should be valued at Rs. 264/- both for purposes of Court fee and jurisdiction. The valuation of Rs. 5,05,000/- fixed by the plaintiff is arbitrary and is not based on any valid criteria. If any valuation is fixed at the whim of the plaintiff, the suit would be filed either before a Civil Judge or before District Judge or in this Court. Section 15 of the Code of Civil Procedure provides that every suit shall be instituted in the Court of the lowest grade competent to try it. The valuation of Rs. 5,05,000/- has obviously been arbitrarily fixed to institute the suit in the High Court instead of instituting in the Court of the lowest grade which is not proper and justified.

7. In view of my above discussion, I hold that the suit has not been properly valued for purposes of Court fee and jurisdiction and it should be valued at Rs. 264/- both for purposes of Court fee and jurisdiction. It should be correctly valued accordingly. With this valuation, this Court will have no jurisdiction.

Plaint be returned to the plaintiff for being presented to a Court of competent jurisdiction.

Suit not properly valued.