

Ramanan Vs. Chitrasenan

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Court : Kerala

Decided On : Feb-22-2007

Reported in : AIR2007Ker174

Judge : Kurian Joseph and; K.T. Sankaran, JJ.

Acts : [Kerala Civil Courts Act, 1957](#) - Sections 13; Kerala Civil Courts (Amendment) Act, 1996; Kerala Court-Fees and Suits Valuation Act, 1960 - Sections 52 and 53

Appeal No. : R.F.A. No. Nil of 2007

Appellant : Ramanan

Respondent : Chitrasenan

Advocate for Pet/Ap. : Jamaludheen K.M. and; Latha Prabhakaran, Adv.

Judgement :

K.T. Sankaran, J.

1. Registry has noted a defect that the Appeal is not maintainable before the High Court since valuation for the purpose of jurisdiction is below Rs. Two lakhs. Appellant has replied stating that the amount decreed together with interest would be above Rs. Two lakhs and therefore, the Appeal is maintainable. Since such question arises very often, we thought, it would be expedient to lay down the

principles.

2. In the present case, suit was filed by the respondent herein for specific performance of contract or in the alternative, for realization of the advance of Rs. 1,50,000/- paid by the plaintiff to the defendant. The valuation for specific performance is Rs. 1,60,000/- and that for the alternative relief is Rs. 1,50,000/-. The Court of the Additional Subordinate Judge, Irinjalakuda passed a decree for return of the advance amount together with interest at 6% per annum from 28-2-2003. The appellant has shown in the Memorandum of Appeal that the interest payable under the decree is Rs. 31,550/-. Even adding the interest, the valuation would be Rs. 1,81,550/-. The appellant also added the costs of Rs. 19,480/- in the valuation and the total valuation was shown as Rs. 2,1,030/-.

3. Section 13 of the [Kerala Civil Courts Act, 1957](#), as amended by the Kerala Civil Courts (Amendment) Act, 1996, provides thus:

Appeals from the decree and order of a Munsiff's Court and where the amount, or value of the subject-matter of the suit does not exceed two lakhs rupees from the original decree and orders of a Subordinate Judge's Court shall, when such appeals are allowed by law, lie to the District Court.

The contention of the learned Counsel is that court-fee is payable on interest and costs as well and therefore, the valuation for the purpose of jurisdiction would be the amount including interest and costs. In this context it would be profitable to refer to the relevant portions of Sections 52 and 53 of the Kerala Court-Fees and Suits Valuation Act (hereinafter referred to as 'Court-Fees Act').

52. Appeals : The fee payable in an appeal shall be the same as the fee that would be payable in the Court of first instance on the subject-matter of the Appeal.

Explanation (1) : Whether the appeal is against the refusal of a relief or against the grant of the relief, the fee payable in the appeal shall be the same as the fee that would be payable on the relief in the Court of first instance.

Explanation (2) : Costs shall not be deemed to form part of the subject-matter of the appeal except where such costs form themselves the subject-matter of the

appeal or relief is claimed as regards costs on grounds additional to, or independent of, the relief claimed regarding the main subject matter in the suit.

Explanation (3) : In claims which include the award of interest subsequent to the institution of the suit, the interest accrued during the pendency of the suit till the date of decree shall be deemed to be part of the subject-matter of the appeal except where such interest is relinquished.

53. 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.

(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.

4. For the purpose of jurisdiction, valuation of the suit is relevant. The forum of Appeal is decided on the basis of the valuation of the suit. Valuation for the purpose of Jurisdiction and for the purpose of court-fee need not be the same, That is the indication in Section 53 of the Court-Fees Act, For computing the court-fee payable. interest accrued during the pendency of the suit till the date of decree shall be added, unless the relinquishment as provided in Explanation (3) to Section 52 of the Court-Fees Act is available. Costs would not form part of the subject-matter of the appeal unless the ingredients of Explanation (2) to Section 52 of the Court-Fees Act are attracted. Jurisdiction of the appellate Court is decided on the basis of Section 13 of the Civil Courts Act and not on the basis of Section 52 of the Court-Fees Act. Interest accrued during the pendency of the suit is not a criterion for deciding the forum of appeal. Valuation of the suit is static and it decides the forum of appeal. If the valuation for the purpose of court-fee is taken as the valuation for the purpose of jurisdiction in cases where specific provision is made in the Court-Fees Act for valuation of a suit, anomalous situations may arise.

For example, different suits filed on the same day for similar relief and with the same valuation need not be decided by the trial Court on the same date, month or year. If the forum of appeal is decided reckoning interest accrued till the date of the decree as well, appeal against one suit may lie to District Court and that against another may lie to the High Court. Such a situation is not contemplated under the Kerala Civil Court Act. Even if the valuation for the purpose of court-fee is above Rs. Two lakhs, an appeal would lie before the District Court, if the valuation for the purpose of jurisdiction as provided under Section 13 of the Civil Court Act is below Rs. Two lakhs. In the present case, excluding costs, valuation is below Rs. 2 lakhs, There is no reason to include costs for the purpose of valuation. Since the valuation for the purpose of jurisdiction is below Rs. Two lakhs, on the basis of the valuation of the suit, though valuation for the purpose of court-fee is shown as Rs. 2,01,100/-, the appeal is not maintainable in the High Court, as rightly noted by the Registry,

5. The registry shall return the Memorandum of Appeal, court-fee stamps and certified copy of the judgment and decree to the appellant.

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