

Birendra Kumar Dutta Vs. Charu Chandra Dutta and anr.

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Court : Kolkata

Decided On : Nov-26-1957

Reported in : AIR1959Cal537,63CWN380

Judge : S.K. Sen, J.

Acts : [Court Fees Act, 1870](#) - Section 7; ; [Suits Valuation Act, 1887](#) - Section 8

Appeal No. : Civil Revn. No. 2277 of 1957

Appellant : Birendra Kumar Dutta

Respondent : Charu Chandra Dutta and anr.

Advocate for Def. : Sarat Chandra Jana, Adv.

Advocate for Pet/Ap. : Tarun Kumar Banerjee, Adv.

Judgement :

ORDER

S.K. Sen, J.

1. This revisional application is directed against an order of the learned Munsif, 1st Court, Howrah, accepting the valuation made by the plaintiffs in a suit for the purpose of court fees and jurisdiction. The plaintiff's filed the suit for declaration of title and recovery of possession on the allegation that the defendant was a

licensee and that the license had been terminated. The suit was valued at Rs. 100/-, the subject-matter of the license being a masonry one-storied building on a plot of land measuring about six cottahs situated in Mouza Jagacha in the district of Howrah. The property is situated in a village and not in a municipal area. The defendant objected that the suit being a suit for declaration of title and recovery of possession, though as against a licensee on the case of the plaintiffs, it should be valued according to the actual value of the subject-matter of the license, that is, of the plot of land measuring six cottahs and the structures situated thereon. This contention was repelled by the learned Munsif who held that the case would come under Section 7(iv)(c) of the Court Fees Act and no objective standard of valuation being available, the valuation of the plaintiffs must be accepted.

2. Mr. Banerjee appearing for the petitioner defendant has urged that the decision of the learned Munsif is wrong and in support of his contention he has referred to the decision of a single Bench, vide *Satis Kumar v. Sailabasini Debi*, AIR 1949 Cal 621 where it was held that in such a suit where the plaintiffs claim possession of premises from a licensee whose license had been revoked, the suit would be governed by Section 7(v) of the Court Fees Act and the plaintiff would be entitled to put his own valuation. It appears from a perusal of the Ruling that the learned Judge who decided the case did not agree with an earlier decision of the Calcutta High Court, viz., *Basiram Christian v. Ganesh Chandra Das Gupta*, 24 Cal WN 167 (Notes) in which case the valuation given by the plaintiff apparently under Section 7(iv)(c) of the Court Fees Act was accepted. If the decision in *Satis Kumar v. Sailabasini Debi* be accepted, it would follow that the plaintiffs seeking to recover possession as against a licensee would be in a worse position than a plaintiff seeking to recover possession as against a tenant whose tenancy had been determined because in the latter case Section 7(xi)(cc) would apply and the valuation would be according to the amount of rent payable for the year next before the date of presenting the plaint. I am therefore unable to agree that in a suit for recovery of possession as against a licensee whose license had been revoked the valuation for the purposes of court fees and jurisdiction must be the market value of the land and the structures standing thereon. A Division Bench of this High Court has in fact laid down that even if it is held that Section 7(v) of the Court Fees Act applies, the value of the subject matter of the suit cannot be the

market value of the property in respect of which the plaintiff claims his relief, because the relief sought is that the licensee should leave the land and structures thereon, and the value of this relief is much less ordinarily than the market value of the property over which the license was given, vide *Chandi Charan Das v. Sm. Sushila Bala Dasi* : AIR1955 Cal144 . In that case the Division Bench accepted the valuation put by the plaintiff of Rs. 110/- only although if the market value of the land and the premises were accepted, the value would be much more. Mr. Banerjee has sought to distinguish this Ruling by pointing out that Their Lordships in the Division Bench Case just cited were dealing with the valuation for the purposes of jurisdiction and not with the valuation For the purposes of court fees. I am however unable to hold that there can be any distinction between the valuation for the purposes of jurisdiction and the valuation for the purposes of court-fees in such a suit. Section 8 of the Suits Valuation Act no doubt refers to suits other than those suits which are governed by Section 7, paragraphs (v), (vi) and (ix) and paragraph (x) Clause (d). Section 8 lays down that in such suits the value for court fees and the value for jurisdiction shall be the same. This does not mean that the value for court fees and for jurisdiction shall be different in a case governed by Section 7, paragraphs (v), (vi) and (ix) and paragraph (x) Clause (d). These cases are governed by Part I of the Suits Valuation Act. There is nothing in this Part to show that the value for the purposes of jurisdiction shall be less than the value as determined for the purposes of court fees. On the other hand when the suit is valued according to the subject-matter, it is clear that the same value shall govern the valuation for jurisdiction as well as for valuation for court fees.

3. Accordingly even if it is held that Section 7(v) of the Court Fees Act applies in such a case since the subject matter cannot be valued precisely, the valuation put by the plaintiff must be accepted. In the alternative if it is held that the suit is governed by Section 7(iv)(c) of the Court Fees Act, the decision of the learned Munsif is quite correct. In either case therefore I see no reason to interfere with the determination of the valuation as made by the plaintiff opposite party for the purposes of court fees and jurisdiction.

4. This Rule is therefore discharged. No order is made as regards costs.

