

(2001) 01 P&H CK 0057

High Court Of Punjab And Haryana At Chandigarh

Case No: Regular First Appeal No. 514 of 1979

P.N.B., Amritsar

APPELLANT

Vs

Jagjit Singh

RESPONDENT

Date of Decision: Jan. 19, 2001

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 35, 35(2)

Citation: (2001) 2 RCR(Civil) 36

Hon'ble Judges: R.L. Anand, J

Bench: Single Bench

Advocate: Mr. P.S. Saini, for the Appellant;

Judgement

R.L. Anand, J.

This is an RFA directed against the judgment and decree dated 9.1.1979 passed by the Court of Senior Subordinate Judge, Amritsar, who decreed the suit of the plaintiffs-respondents for possession of the contents of locker as given in para 8 of the plaint against the present appellant i.e. the Punjab National Bank, Amritsar with costs with the observations that the plaintiffs obtain clearance certificate from the Estate Duty Officer, Amritsar, regarding that they have paid the estate duty due on the value of the contents of the locker. The grouse of the appellant-Bank is limited to the extent that the trial Court should not have awarded costs of the suit which have been assessed at Rs. 20759.30 inclusive of the stamp for the plaint and the lawyer's fee. I have gone through the records of this case and am of the opinion that no interference is called for. Section 35 CPC lays down that :-

"Subject to such conditions and limitation as may be prescribed, and to the provisions of any law for the time being in force, the costs of and incident to all suits shall be in the discretion of the Court, and the Court shall have full power to determine by whom or out of what property and to what extent such costs are to be paid, and to give all necessary directions for the purpose aforesaid. The fact that the

Court has no jurisdiction to try the suit shall be no bar to the exercise of such powers."

2. Sub-section (2) of Section 35 of the CPC further lays down that :-

"(2) Where the Court directs that any costs shall not follow the event, the Court shall state its reasons in writing."

3. Thus, a reading of the above provision would show that the costs invariably follow the events. Further, this Section suggests that whether to award the costs or not is the sole discretion of the Trial Court, if the discretion has been exercised in a valid manner and according to the recognised principles of law, the appellate Court should be slow in interfering unless there is a divided interest between the parties on various issues if the suit is not contested by the respondents. In the present case, the plaintiffs-respondents have paid the Court fee. However, the discretion has been rightly exercised by the trial Court in awarding the costs in favour of the appellant-Bank.

4. There is no merit in this appeal and the same is hereby dismissed with no order as to costs.

5. Appeal dismissed.