

(1944) 01 AHC CK 0002

Allahabad High Court

Case No: None

Chief Inspector of Stamps

APPELLANT

Vs

L. Kedarnath Murarka and
Others

RESPONDENT

Date of Decision: Jan. 13, 1944

Citation: AIR 1944 All 113 : (1944) 14 AWR 78

Hon'ble Judges: Yorke, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Yorke, J.

This is an application in revision by the Chief Inspector of Stamps u/s 6B of the amended Court-fees Act. By this application the applicant seeks a declaration under Sub-section (2) of that section that the proper court-fee has not been paid on the plaint in a suit pending in the Court of the Temporary Civil and Sessions Judge, Cawnpore, and a determination of the amount of the deficiency.

2. In this suit the plaintiffs admittedly prayed for two reliefs : (1) that it might be declared that the office-bearers declared duly elected at the meeting presided over by Mr. Kasera and not defendants 1 to 6 were the duly elected office-bearers of the Cawnpore Kapra Committee, and (2) that an injunction might be issued restraining the defendants to act as elected bearers of the committee. The plaintiff's valued the relief for declaration at Rs. 100 and the relief for injunction at Rs. 5100 and paid a court-fee of Rs. 30 on the relief for declaration under Article 17(iii), Court-fees Act, and Rs. 200 on the relief for injunction u/s 7(iv-B)(b), Court-fees Act. The learned Civil Judge took the view that these reliefs should be treated for purposes of the Court-fees Act as independent reliefs and he accordingly held that the amounts paid were sufficient. He went on to say that

Section 7(iv)(a) lays down that in a declaratory suit where consequential relief is prayed for the court-fee is payable on the amount at which the relief sought is valued in the plaint.

He considered that by this wording "relief sought" meant the declaratory relief and he put his decision in these words:

The declaratory relief is valued at Rs. 100 while the second relief is valued at Rs. 5100. The plaintiffs have paid their court-fees on the value of both their reliefs. In my opinion the court-fees already paid by the plaintiffs are sufficient.

If the learned Judge was not merely repeating himself but was making a statement with reference to the court-fees as they should have been calculated on the sum of Rs. 5200, he was admittedly wrong because the court-fee payable would be Rs. 417-8-0 and not Rs. 230. Against this order the present application has been made in revision under the provisions of Section 6B, Court-fees Act.

3. On behalf of the Chief Inspector of Stamps it is contended in effect that Sub-section (iv) of Section 7 is self-contained and that in a case where a declaratory decree is sought with consequential relief (other than reliefs specified in Sub-section (iv-A) which has no application to the present case), the words "relief sought" in the succeeding phrase "according to the amount at which the relief sought is valued in the plaint or memorandum of appeal" mean the relief sought in the suit as a whole. It is argued that there is some support for this view in the proviso which is a new addition to the sub-section I am unable to see that that proviso really does afford any support. It is conceded that prior to the amendment of the section by which this proviso was added, it was never held that in suits to obtain a declaratory relief where consequential relief was prayed, the declaratory relief and the consequential relief could be separately valued under the provisions of Sub-section (iv) and Sub-section (iv-B). In my judgment, it is impossible to read Sub-section (iv), Court-fees Act, in the manner suggested and it must be held that the words "relief sought" mean the whole relief which is prayed for in the suit. Since the relief for injunction cannot be treated as an independent relief, it follows that it cannot be valued under Sub-section (iv-B)(b) and therefore the litigant is not entitled to the maximum limit of Rs. 200 provided by that sub-section. It appears to me that the learned Civil Judge has wrongly held that the reliefs are independent and on the supposition that they are independent, full court-fee has been paid.

4. I make a declaration accordingly that the proper court-fee to be paid is Rs. 417-8-0 and the Chief Inspector of Stamps is entitled to his costs of this application. The amount of deficiency to be recovered by the Court below is Rs. 187-8-0.