
(1878) 01 AHC CK 0015

Allahabad High Court

Case No: None

Ram Dai

APPELLANT

Vs

Chamaili Rani

RESPONDENT

Date of Decision: Jan. 10, 1878

Citation: (1875) ILR (All) 552

Hon'ble Judges: Robert Stuart, C.J; Turner, J; Spankie, J; Pearson, J

Bench: Full Bench

Final Decision: Disposed Of

Judgement

Robert Stuart, C.J.

It appears to me that the meaning of the words "distinct subjects" in Section 17 q. v. supra 1 All. P. 552 of Act VII of 1870 is shown with sufficient clearness in that section itself, when it states that "the plaint or memorandum of appeal shall be chargeable with the aggregate amount of the fees to which the plaints or memoranda of appeal in suits embracing separately each of such subjects would be liable under this Act." This, I think, can only mean that the two or more distinct subjects are to be so chargeable as being distinct causes of action. The words "plaints or memoranda of appeal in suits" in the section show this to my mind conclusively, and it is not enough that the distinct subjects should be merely separate and distinct matters embraced in the claim.

2. But, on the other hand, I am of opinion that this interpretation of Section 17 of the Court Fees" Act does not in the least degree affect the correctness of the calculation submitted by the office in the case which has given rise to this reference, for it is very clear to me that each of the separate distinct subjects mentioned in the report might be separate causes of action in separate suits, and therefore whether viewed in that light or merely as distinct and separate matters of claim, the correct fee chargeable in this case is that suggested by the Assistant Registrar.

Turner, J.

3. Seeing that the fee to be charged in such cases is the aggregate of the fees to which the plaintiffs in suits embracing separately each of the subjects would be liable under the Act, I am inclined to think that "distinct subjects" mean distinct causes of action or distinct kinds of relief; e.g., if a suit is brought for the recovery of an inheritance, although the inheritance might consist of distinct properties and properties differing in kind, the fee would be computed on the aggregate value of the one subject of suit. But where a suit is brought (i) for the recovery of an inheritance, (ii) for an injunction, and (iii) for the amount of a bill-of-exchange accepted by the defendant, each of these three subjects would be distinct, and the fee chargeable would be the aggregate of the fees chargeable in respect of each subject if sued for in a separate suit. On the report now submitted by the office it is not possible to determine the proper fee. When the record is before the Court it can be ascertained what are the subjects to which the appeal relates.

Pearson, J.

4. I concur in the view taken by my learned colleague Mr. Justice Turner.

Spankie, J.

5. I adhere to the opinion which I expressed when this question was argued by Pandit Ajudhia Nath before the referring Bench, which opinion I believe the learned Chief Justice shared. But it became necessary to refer the question as a doubt had been expressed elsewhere as to the meaning of the words "distinct subjects" in Section 17 of the Court Fees" Act.

6. I regard the words as meaning every separate matter distinctly forming a subject of the claim. The section runs thus: "Where a suit embraces two or more distinct subjects, the plaintiff or memorandum of appeal shall be chargeable with the aggregate amount of the fees to which the plaintiffs or memoranda of appeal in suits embracing separately each of such subjects would be liable under this Act." The fee to which each of the distinct subjects embraced by the suit is liable, if a separate suit were brought, is first to be ascertained and then the aggregate amount of all the items is to be charged. The words "multifarious suits" in the margin have no reference to Section 8* of Act VIII of 1859 in the sense suggested by the learned pleader for appellant, that we are to read the words "two or more distinct subjects" as if they were "two or more distinct causes of action;" and the second clause in Section 27 that "nothing in the former part of the section shall be deemed to affect the power conferred by the Code of Civil Procedure, Section 9" simply affirms what is laid down in Section 9 that, where two or more causes of action are joined in the same suit, and the Court shall be of opinion that they cannot conveniently be tried together, the Court may order separate trials of such causes of action to be held.

7. I would reply that the Assistant Registrar has calculated the fees strictly in accordance with the provisions of Section 17 of Act VIII of 1870.

*[Joinder of causes of action in the same suit.

Section 8: Causes of action by mid against the same parties, and cognizable by the same, Court, may be joined in the same suit, provided the entire claim in respect of the amount or value of the property in suit do not exceed the jurisdiction of such Court.]