

(1992) 03 PAT CK 0019

Patna High Court

Case No: Civil Revision No. 690 of 1988

Murli Bhagat and Others

APPELLANT

Vs

Vijay Kumar Sinha and Others

RESPONDENT

Date of Decision: March 13, 1992

Final Decision: Dismissed

Judgement

S.B. Sinha, J.

This application is directed against the order dated 24-34983, passed by Sri D. Pandey, Ist Additional Munsif, Darbhanga, in Title Suit No. 135 of 1983 whereby and whereunder he accepted the valuation of the suit as given by the plaintiff-opposite parties in their plaint. The plaintiff filed aforementioned suit for declaration of title and recovery of possession for the suit property. He valued the suit at Rs. 1,500 having filed their written statement containing inter alia that the valuation of the suit property was Rs. 40,000. The valuation of the suit property was taken up as a preliminary issue, as both the parties adduced their respective evidences.

2. The learned court below relied upon a Full Bench decision reported in [Md. Alam and etc. Vs. Gopal Singh and Others](#), wherein it has been held that the valuation given by the plaintiffs should be accepted ordinarily but it is the duty of the court to see that such valuation is not arbitrary and under estimated deliberately.

3. The learned court below, therefore, has held:

In this suit whatever be the exact value of the suit property at the market rate is immaterial and court has to see that the valuation given by the plaintiff on his relief is correct or under valued. The plaintiff wants to get his title declared on the basis of the Ext. C, a sale-deed which is for a consideration of Rs. 1500 and he has valued the suit for this amount. In my opinion, the valuation of this suit, as given by the plaintiff for the relief claimed, is correct and I do not think that any interference in it by the court is justified.

4. Mr. Bhagat, learned Counsel appearing for the petitioner, has raised a short question in support of this application. The learned Counsel submitted that even if it be held that the suit filed by the plaintiffs comes within the purview of Section 7(iv)(c) of the Court Fees Act, such a valuation must be a reasonable one.

It has further been submitted that, in any event, the learned court below having intended to decide the said issue, as a preliminary issue, it was not proper for it to side track the same and arrive at a finding only on the basis of the sale-deed executed in favour of the plaintiff, on the basis whereof, he had sought for decree for declaration of his right, title and interest in the suit property.

5. In this case, the learned court below appears to have adopted a queer attitude. Prima facie the case does not come within the purview of Section 7(iv)(c) of the Court Fees Act. In this suit the plaintiff has prayed for declaration of his title and also for recovery of possession. Section 7(v)(e) of the Court Fee Act provides that whence the subject-matter of the suit is house or garden, court fee would be payable according to the market value of the house or garden. In this case the area of the land in question is said to be 3 dhurs and 66 dhurkis. It is also a case of the plaintiff that there is a building on the aforementioned land.

6. In this view of the matter, as the suit comes within the purview of Section 7(v)(e) of the Court Fees Act, it was incumbent upon the court below to determine the market value of the house in suit. This aspect of the matter has also been considered by the Supreme Court of India in the case of [Abdul Hamid Shamsi Vs. Abdul Majid and Ors.](#) .

7. In view of the authoritative pronouncement of the Full Bench of this Court upon which reliance has been placed by the court below, as also of the Supreme Court of India, there cannot be any doubt that the learned court below was legally obliged to proceed with the matter for the determination of the amount of the court fee on the basis of the market value of the house. Even if it be held that the suit was governed u/s 7(iv)(c) of the Court Fees Act, there cannot be any doubt that for that purpose also the valuation of the suit property must be a reasonable one,

8. Learned court below unfortunately has proceeded on the basis that the valuation of the suit property will be equivalent to the value of the deed of sale through which the plaintiff has acquired right, title and interest. Such a consideration was wholly irrelevant.

9. In this view of the matter, this application is allowed and the impugned order set aside and the learned court below is hereby directed to determine the amount of the market value of the suit property. However, in the facts and circumstances of this case, there will be no order as to costs.