
87 Ind. Cas. 801

Bombay High Court

Case No: None

Bhimsangji
Chhatrasangji

APPELLANT

Vs

Dolatsang Ji
Hamirsangji

RESPONDENT

Date of Decision: Nov. 25, 1924

Acts Referred:

Suits Valuation Act, 1887 " Section 8

Citation: 87 Ind. Cas. 801

Hon'ble Judges: Norman Macleod, C.J; Crump, J

Bench: Division Bench

Judgement

1. The plaintiff sued, inter alia, for a declaration that he was the owner of the Toda Giras Hak of Rs. 500 received by Bai Surajkuvar as her heir

and as such entitled to recover the same. The total claim was valued for Court-fees at Rs. 2,143-5-8 and also for jurisdiction. The suit was tried

by the Second Class Subordinate Judge at Ankleshwar who passed a decree in favour of the" plaintiff.

2. On appeal to the District Judge, an issue was raised whether the Court-had jurisdiction to entertain the suit. The District Judge held that the suit

was not within the jurisdiction of the Subordinate Judge of the Second Class at Ankleshwar, and ordered the plaint to be returned for presentation

to the proper Court under Rule 10 of Order VII of the C.P.C.

3. We think that that order was wrong. It depends, in the first place, upon what value should be placed on the first relief claimed, namely, the

declaration that the plaintiff was the owner of the Toda Giras Hak of Es. 500. The District Judge thought the claim was for payment of an annuity,

and the value for the purposes of the Court-fee u/s 7 (ii) would then be ten times the amount claimed to be payable for one year We do not think it

can be said that the plaintiff was claiming payment of an annuity, the suit really comes within Section 7 (iv), (c) ""to obtain a declaratory decree or

order where consequential relief is prayed."" All that the plaintiff was seeking was a declaration that he was entitled to an annuity which was enjoyed

by Bai Suraj, and having got that declaration, he would be entitled to go to the official whose duty it was" to pay the annuity, and demand payment

according to the decree of the Court. The Court-fee stamp would be according to the amount at which the relief sought was valued in the plaint,

namely, Rs. 500.

4. The next question is what would be the value of the suit for the purposes of jurisdiction. u/s 8 of the Suits Valuation Act, the value as

determinable for the Computation of Court-fees in suits other than those referred to in the Court Fees Act, 1870, Section 7, paras v, vi, ix and

para. x, Clause (d) is the same for purposes of jurisdiction.

5. Accordingly the appeal will be allowed and the appeal will be sent back to the District Judge for being heard on its merits The appellant will be

entitled to his costs of the appeal.