
(1954) 08 CAL CK 0044

Calcutta High Court

Case No: Civil Revision Case No. 198 of 1953

Chandi Charan Das

APPELLANT

Vs

Sushilabala Dasi

RESPONDENT

Date of Decision: Aug. 3, 1954

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 6
- Suits Valuation Act, 1887 - Section 8

Citation: 59 CWN 606

Hon'ble Judges: Debabrata Mookerjee, J; Das Gupta, J

Bench: Division Bench

Advocate: Durga Charan Roy Choudhury, for the Appellant; Manindra Nath Ghose and Surendra Narayan Sarkar, for the Respondent

Judgement

Das Gupta, J.

This case raises the question of valuation of the subject matter of a suit, where the provisions of section 8 of the Suits Valuation Act are not applicable. The petitioner brought the present suit for possession of certain lands on the averment, that the Defendant was a licensee thereof and that the license had been revoked. There was also a prayer for mesne profits. The suit was valued for the purpose of jurisdiction at Rs. 110. On an objection being raised by the opposite side that the Munsif's Court had no jurisdiction to try the suit, the learned Munsif considered the question and came to the conclusion that the value of the suit for purposes of jurisdiction was well above the pecuniary jurisdiction of his Court. On appeal the learned Subordinate Judge affirmed the learned Munsif's finding.

2. Both parties agreed that the court fees are payable on the plaint in accordance with the provisions of section 7(v) of the Court-fees Act, "according to the value of the subject matter." The clause itself contains provisions indicating what such value shall be deemed to be where the subject-matter is land. It is not disputed that

calculated on that basis the value of the subject-matter for the purpose of court-fees as ascertained u/s 7(v) would be well beyond the jurisdiction of the learned Munsif.

3. It is necessary to remember however that in the present case, we are not concerned with the valuation for the purpose of court-fees, but with valuation for the purpose of jurisdiction. The Suits Valuation Act was passed by the Legislature "to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto". The 8th section thereof provides that "in suits other than those referred to in the Court-fees Act, 1870 section 7, paragraphs v, vi and ix, and paragraph x clause (d) court-fees are payable ad valorem under the Court-fees Act, 1870, the value as determinable for the computation of court-fees and the value for the purposes of jurisdiction shall be the same." Thus in determining the value of a suit in which like the present suit, court-fees are payable u/s 7(v) of the Court-fees Act, we get no assistance from the provisions of the Court-fees Act, because section 8 deliberately excludes it from the application of the rule that the value as determinable for the purpose of court-fees and the value for the purposes of jurisdiction shall be the same. It therefore becomes necessary to ascertain the value for the purposes of jurisdiction without any assistance from other provisions of law, bearing in mind the language of section 6 of the CPC that "in so far as is otherwise expressly provided, nothing herein contained shall operate to give any Court jurisdiction over suits the amount or value of the subject-matter of which exceeds the pecuniary limits (if any) of its ordinary jurisdiction". The question that has to be decided is what is the subject-matter of the present suit. One view is that the property over which the suit is brought is the subject-matter of the suit and the value of the property is the value of the subject-matter of the suit. The other view is that it is not the property over which the suit is brought that can be called the subject-matter of the suit, but it is the relief that is sought in respect of the property that is the subject-matter of the suit.

4. The second view was adopted by the Patna High Court in *Musammat Barkatunnisa Begum, v Mussammat Kaniza Fatma*, (1) [I.L.R. (1927) 5 Pat 631], where the Court said "The subject-matter of the suit is the right to eject the defendants and the value of that right is the value at which the defendants' right to remain in the house under the license of the plaintiff may be valued".

5. The Bombay High Court took a different view in [Ratilal Manilal Vs. Chandulal Chhotalal](#). The reasoning of the Bombay decision appears in the following passage from Maclin, J. - judgment.

6. In the landlord and tenant suit the High Court of Allahabad held that the subject-matter could not be treated as the land itself, as the landlord had through his tenants proprietary-possession and what was sought in the suit was to free the land from the possession of the tenants holding as tenants at fixed rates, that is, to get rid of the tenants and their tenant-rights. Apparently there the Court thought that the subject-matter of the suit was getting rid of the tenants and their

tenant-rights In the license: case before the Patna High Court the Court thought that the subject-matter of the suit was the right to eject the defendants and the value of that right was the value at which the defendant's right to remain in the house under the licence of the plaintiff might be valued In neither case did the Court treat the subject-matter as being the property itself although it was of the property itself that possession was sought. In defence of the order of the lower Court it is argued that this is the correct way to look at the question, since the subject-matter in a case of this kind ought not to be regarded as the entire house with all the rights involved therein but merely one aspect of the house But with all respect to the learned Judges who decided the two cases cited I think that they are entirely wrong. In plain English the subject-matter of a suit is what the suit is about. It is not the same thing as the object of the suit The object of the suit is the claim, in other words possession of the house The subject of the suit is the house That this is the correct view to take is I think clear also from the wording of section 7(v) it self The section says that suits for the possession of land houses or gardens are to be valued according to the subject-matter, and the sub-section goes on to say that where the subject matter is land the value shall be determined according to clauses (a) (b) (c) or (d) and where the subject-matter is a house or garden the value shall be deemed to be the market value of the house or garden.

7. I entirely agree with Maclin, J. that in section 7(v) of the Court-fees Act the Legislature used the words "subject-matter" to mean the land where relief was sought in respect of the land, because the Legislature it self, as pointed out by the learned Judge went on to say what should be deemed to be the value where the subject-matter is land and again what should be deemed to be the value when the subject-matter is house or garden.

8. With due deference to the learned Judges, I am unable to see how the fact that in the Court-fees Act, the Legislature used the words in this particular sense justifies the conclusion that in the Civil Procedure Code, the Legislature used it in the; same sense. Nor can I see that the distinction sought to be made between "subject" and "object" is anything but misleading.

9. It will be convenient to examine some uses of the words "subject-matter" as used in matters outside the courts of law. A professor of English literature is giving a lecture on the question whether Shakespeare and Bacon were identical persons. What is the "subject-matter" of this lecture? It is not right to say that Shakespeare; is the subject matter nor is it right to say that Bacon is the subject-matter. The proper answer certainly is, the subject-matter is the question of identity of Shakespeare and Bacon. The lecture is about Shakespeare and Bacon but only the particular matter to which the lecturer directs; his attention can be called the subject-matter. The fact that the object of the lecture may be to establish the; identity or to demolish the theory of identity of the two is no reason for not describing the question of identity of these two persons as the subject-matter of the lecture.

10. A club is considering the question whether members should come in dhoti. What is the subject-matter of the discussion? The subject-matter is not dhoti nor is it the dress of members. The subject-matter is the desirability of members attending the club in dhoti.

11. It is clear from this examination) that to say that the subject-matter of a suit is what the suit is about is an unhelpful simplification of the problem, for the question will still have to be answered, what is the suit about. Some people bring a suit on a claim of the right of irrigation from a tank. Is the suit about water of the tank, or is it about the lands sought to be irrigated or is it merely about this right of irrigation? I think it is easy to agree that the best answer to the question is that the suit is about the right to irrigation and it is this right, not the tank, nor the land that is the subject-matter of the suit.

12. Consider another case, where a person brings a suit on a claim of "ancient lights", enjoyed by his house. The house is not the subject-matter. The subject-matter is the relief which the party claims on the averment of ancient lights.

13. I think it may be correctly said in all cases that as a suit is brought for a relief the subject-matter is the relief. The fact that this relief is asked for in respect of movable or immovable properties does not make that property the subject-matter of the relief.

14. My conclusion is that in the present case, accordingly, the subject-matter of the suit is not the property in respect of which the plaintiff claims relief but the relief itself. What is the relief he asks for? It is that the licensee should leave the land and structures thereon. The value of this is obviously very less ordinarily than the value of the property over which the licence is said to have been given.

15. In coming to this conclusion, I have not overlooked the decision of Sen, J., in *Satish Kumar v. Sailabasini Devi* (3) reported in AIR 1949 Cal. 621, where a person claimed possession from a licensee, as in the present case, and his Lordship held that the valuation should be made in one of the ways provided in clause (v) of section 7 of the Court-fees Act. As far as I can make out from the report, however, the only question his Lordship was considering in this case was the valuation for the purpose of court-fees and his Lordship was not concerned with the question of valuation for the purpose of jurisdiction.

16. In my judgment, the valuation of Rs. 11C placed by the plaintiff on the relief he wants to obtain by getting rid of the licensee cannot be considered inadequate. I would, therefore, set aside the orders of the Courts below and direct the learned Munsif to dispose of the case in accordance with law. The Rule is accordingly made absolute. There will be no order as to costs.

Debabrata Mookerjee, J.

I agree.