

CS DJ No:- 125/23
ANGAD AHUJA Vs. VIKAS AHUJA & ORS

29.04.2023

Present:- Sh. Ishan Jain and Sh. Yash Prakash, Ld. Counsels for plaintiff.
Sh. Rahul Kumar and Sh. Debmalya Ganguli, Ld. Counsels for defendants no. 1 and 2.
Sh. Rohit Sharma, Ld. Counsel for defendant no. 3.
(Memo of appearance filed on behalf of defendant no. 3, same is taken on record).

Some time is sought on behalf of defendant no. 3 to file vakalatnama as well as written statement.

Reply to the application under Order XXXIX Rule 1 and 2 CPC filed today on behalf of defendants no. 2 and 3. Copy supplied.

An application under Order VII Rule 11 CPC was moved on behalf of defendants no. 1 and 2 on 27.04.2023. Copy already supplied. It is submitted by Ld. Counsel for plaintiff that he does not wish to file any formal reply to the present application.

Arguments heard.

Vide present application, it is prayed on behalf of defendants no. 1 and 2 that the plaintiff has valued the present suit in paragraph no. 41 @ Rs. 75,00,000/- for the purposes of jurisdiction, while affixed the Court fees of Rs. 20/- only. As such, while relying upon the judgments i.e. **Rajinder Singh Bhatia v. Manju Bhatia**, CS (OS) 172/2021 of Hon'ble Delhi

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High Court decided on 22nd August 2022 and *Bharat Sanchar Nigam Ltd. v. All India Bharat Sanchar Nigam Executives' Association (Regd.) & Ors., 2006 (87) DRJ 401* and Section 8 of The Suit Valuation Act, it is prayed that Court fees affixed by the plaintiff is not sufficient in the present case, as such, present plaint is liable to be rejected.

In response to the arguments made on behalf of defendants no. 1 and 2, Ld. Counsel for plaintiff relied upon the judgment of *Sarvinder Singh & Ors., v. The Chief Manager, Punjab National Bank & Ors., 265 (2019) DLT 573* and argued that judgments relied upon by the defendants no. 1 and 2 only pertain to the relief of injunction under Section 7(iv) (d) of The Court Fees which is not applicable to the present case. It is further argued that pursuant to Article 17(iii) of Schedule II of the Court Fees Act, in a suit to obtain a declaratory decree where no consequential relief is prayed, the Court fees payable would be Rs. 20 and such a suit can be valued differently for the purposes of jurisdiction.

Suffice it to say, the only relief sought by the plaintiff in present suit against defendants is seeking declaration that the Will dated 29.11.2001 executed by Late Sh. Brahm Dutt Ahuja null and void. No consequential relief has been prayed by plaintiff therein. In view of the submissions made on behalf of plaintiff, ratio of judgment in the case of *Sarvinder Singh & Ors. (supra)*

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and pursuant to Article 17(iii) of Schedule II of the Court Fees Act, since no consequential relief is prayed in the prayer clause by plaintiff while seeking a declaratory decree, the suit could be valued differently for the purposes of jurisdiction and the Court fees payable would be fixed i.e. Rs. 20/-. **Thus, application under Order VII Rule 11 CPC moved on behalf of defendants no. 1 and 2 stands dismissed and it is held that the Court fees paid in the present suit is not deficient.**

Put up for further proceedings on **12.07.2023**.

(Akash Jain)
ADJ-1 (South-East), Saket Court
New Delhi/29.04.2023