

Kulvinder Singh and others Vs. Chattar Singh and others.

Civil Suit No. 20 of 2023

31.05.2024 Present: Mr. Neeraj Gupta, Senior Advocate, with Mr. Pranjal Munjal, Advocate, for the plaintiffs.

Mr. Y.P. Sood, Advocate, for defendants No.1 to 4.

Mr. B.N. Sharma, Advocate, for defendants No.5 and 6.

The plaintiffs have filed the present suit, seeking a Permanent Prohibitory Injunction for restraining the defendants from selling, transferring, alienating or encumbering the suit property or changing its nature. They valued the suit for the purpose of jurisdiction at ₹34.00 crores, for the purpose of Court fees at ₹10,000/- and paid a fixed Court fee of ₹65/- on the plaint.

2. The Court listed the matter for adjudication on the question of maintainability of the suit in view of Section 15 of the Code of Civil Procedure.

3. I have heard Mr. Neeraj Gupta, learned Senior Advocate, assisted by Mr. Pranjal Munjal, learned counsel for the plaintiffs, Mr Y.P. Sood, learned counsel for defendants no. 1 to 4 and Mr B.N. Sharma, learned counsel for defendants No. 5 and 6.

4. Mr. Neeraj Gupta, learned Senior Counsel for the plaintiffs submitted that the plaintiffs have a right to value the suit. The plaintiffs fixed the valuation of ₹34.00 crores because of the total sale consideration. Keeping in view the valuation of ₹34.00 crores, this Court has jurisdiction. Hence, he prayed that the Court may proceed with the suit.

5. Mr. Y.P. Sood, learned counsel for defendants No.1 to 4 submitted that as per the token receipt, an amount of ₹21.00 lakhs was paid. The suit can be valued at ₹21.00 lacs which will be within the pecuniary jurisdiction of the learned Civil Judge and not before this Court. Hence, he prayed that the plaint be returned for presentation before the learned District Judge.

6. Mr. B.N. Sharma, learned counsel for defendants No.5 and 6 adopted these submissions.

7. I have given considerable thought to the submissions at the bar and have gone through the record carefully.

8. The plaintiffs have filed the present suit for injunction which is governed by Section 7(iv)(d) of the Court Fees Act. It provides that in a suit to obtain an injunction, the Court fee is payable according to the amount at which the relief is sought to be valued by the

plaintiff. It further provides that the plaintiff shall state the amount at which he values the relief sought by him.

9. Delhi High Court held in *Col. (Retd.) Anil Kumar Bansal v. R. K. Bansal*, 2012 SCC OnLine Del 5635 that the plaintiff has the sole discretion to value the suit and the value fixed by the plaintiff has to be considered as correct. However, the valuation for the purpose of the court fee and jurisdiction cannot be different. It was observed:-

11. Thus, Section 7(iv) of the Act prescribes the court fees at which the relief sought is valued in the plaint and under Section 8 of the Suits Valuation Act 1987, the plaintiff is required to value the suit for the purpose of court fee and jurisdiction identically except for the exceptions provided for under Section 7 of the Court Fee Act, 1870.

14. There can be no quarrel with the contention of the counsel for the plaintiffs that the fixation of the value of the suit is in the sole discretion of the plaintiffs and the valuation of the suit as assessed by the plaintiffs will have to be taken as correct. However, once the plaintiffs have exercised such a discretion, they are under an obligation to pay the court fees in accordance with the provisions of the Court Fees Act, 1870 and the Schedule enclosed therewith.

15. When the plaintiffs have themselves chosen to value the suit for the purposes of court fees and jurisdiction at Rs. 15.00 crores, then they are required to deposit the ad valorem court fees on the basis of their own valuation. In such circumstances, the decisions relied upon by the learned counsel

for the plaintiffs, as mentioned in para 3 above, cannot be of any assistance to the plaintiffs for the reason that for the purposes of deciding the present application, defendant No. 19 has chosen not to question the valuation given by the plaintiffs in the suit, but is only calling upon them to deposit the court fees on the basis of the very same valuation, without prejudice to the argument that the suit valuation is arbitrary or unreasonable.

10. This position was reiterated in *Rajinder Singh Bhatia v. Manju Bhatia*, 2022 SCC OnLine Del 2497 and it was held that once the plaintiff had valued the suit at ₹2.5 crores for the purpose of jurisdiction, the Court fees is liable to be paid on the same amount and the plaintiff cannot have a different valuation for the payment of Court fees. It was observed: -

“5. The plaintiff has filed a suit for Declaration, Permanent and Mandatory injunction for eviction of the defendant and recovery of Mesne Profits/Damages on account of unauthorized occupation of the suit premises i.e. D-43, Double Storey, Ramesh Nagar, Delhi, by the defendant. The basis of the claim is that the plaintiff and defendant are real brothers and sisters. However, disputes arose between the parties and a suit bearing CS(OS) 3380/2015 was filed for partition. The suit was decreed in favour of the plaintiff vide Order dated 12th March 2020 on the basis of the settlement between the parties in terms of an MoU dated 06th March 2020. According to the MoU, the parties to the suit and the sisters had clearly stated that the plaintiff would be 100% owner of the suit

property. The defendant had also promised to vacate the subject property. However, the defendant has failed to vacate the property and hence, the plaintiff has filed a suit for Mandatory Injunctions for directing the defendant to remove herself and her belongings from the suit property aside from other reliefs. The plaintiff had valued his suit for the purpose of pecuniary jurisdiction at Rs. 2.5 crores while the relief of permanent injunction and mandatory injunction at fixed Rs. 500/- each and court fee has been paid accordingly.

6. The sole objection is that once the valuation of the suit has been done at Rs. 2.5 crore for the purpose of jurisdiction, the court fee is liable to be paid on the same amount and the plaintiff cannot have a different valuation for payment of court fees.

7. It is a settled proposition of law as has also been held in the judgments referred to by the plaintiff that the licensee or an unauthorized occupant can be asked to vacate the property by filing a suit for Mandatory injunction. The moot question, however, is not in regard to the maintainability of a suit for Mandatory Injunction for removal of the defendant who is a licensee/unauthorized occupant from the suit premises. The issue is of valuation and payment of court fees.

8. Section 7 of the Court Fees Act, 1870 provides for computation of fees payable in suits. Under **Section 7(iv) (d)** to obtain an injunction, the court fee is payable according to the amount at which the relief is sought to be valued in the plaint. It further provides that the plaintiff shall state the amount at which he values the relief sought.

9. Section 8 of Suit Valuation Act, 1887 puts an obligation on the plaintiff to value the suit for the purpose of court fee and jurisdiction

identically except for the Exceptions provided in Section 7 paragraphs 5, 6, 9, 10 Clause (d) of the Court Fee Act, 1870.

10. It therefore, follows that though it is in the discretion of the plaintiff to value his suit as per his bona fide belief and discretion, but once he has valued his suit in terms of Section 8 of the Suit Valuation Act, the court fee shall become payable on the same amount in terms of Section 7 of the Court Fees Act. The plaintiff cannot adopt a dual policy of valuing his suit at a certain value for the purpose of jurisdiction and the purpose of payment of court fees. Once the suit has been valued at a certain value, the ad valorem court fees have to be paid mandatorily on the same valuation.

11. The plaintiff in the present case has valued his suit for the purpose of jurisdiction at Rs. 2.5 crores while for the purpose of court fee has assessed each relief at Rs. 500/- each. It is no doubt true that the law gives a discretion to the plaintiff to value his suit and such discretion as exercised by the plaintiff in mentioning the valuation of the suit must not be interfered by the Court as observed by the Full Bench in *Smt. Sheila Devi v. Sh. Kishan Lal Kalra*, ILR (1974) 2 Del 491. However, once the valuation has been done on a certain value by the plaintiff in the exercise of his discretion, he is obliged to pay the court fee on the same amount in terms of Section 8 of the Suit Valuation Act as has been held in the decision of Apex Court in *Commercial Aviation T. Co.* (supra) and this court in *Bharat Sanchar Nigam Ltd.* (supra).

12. In the present case, while a suit for Mandatory injunction for seeking possession from a licensee or an unauthorized occupant is maintainable, but by virtue of Section 8 of the Suit Valuation Act read with Section 7 of the Court Fee Act it is held that the plaintiff is

liable to pay ad valorem court fee on the amount of Rs. 2.5 crores on which he has valued his suit for the purpose of jurisdiction. The plaintiff is given one month to make good the deficient court fee.”

11. A similar view was taken by Madhya Pradesh High Court in *Sharda Bai v. Sharafat Ali*, 2023 SCC OnLine MP 2273 and it was held that the valuation and payment of Court fees in a suit for a permanent prohibitory injunction will be the same and the plaintiff is liable to pay the Court fees on the amount so stated by him. It was observed: -

“7. The question in respect of valuation and payment of court fees in the suit for a permanent injunction based on an agreement of sale arose and was decided by a coordinate Bench of this Court in the case of *Kapoori Bai v. Bhagwan Singh*, 2000 (1) MPWN 65, as under:

“Learned counsel for the applicant invited my attention to section 7(iv)(d)-suits for an injunction. According to section 7(iv)(d), in a suit for injunction, the court fee in such cases has to be paid on the amount on which the relief is sought. Since the plaintiffs alleged that they have entered into an agreement to purchase the land in question for a sum of Rs. 2,10,000/- and they had already paid Rs. 1,30,000/-, therefore, they were seeking an injunction against the defendant not to interfere with the possession.

Accordingly, on the own disclosure of the plaintiffs, the valuation of the suit has to be assessed to the tune of Rs. 2,10,000/-. Therefore, as per clause 7(iv)(d), they have to pay the court fee

ad valorem i.e. at the value of the land purchased by them i.e. a sum of Rs. 2,10,000/-. If the plaintiffs want to continue the suit, then they have to pay the court fee on the valuation disclosed by them to the tune of Rs. 2,10,000/-.”

8. In view of the decision in the case of *Kapoori Bai* (supra), it is clear that if the plaintiff wants to file suit merely for a permanent injunction on the basis of an agreement of sale, then he has to value the suit based on full sale consideration mentioned in the agreement of sale and to pay ad-valorem court fee thereon.”

12. Hence, the submission made by Mr. Neeraj Gupta learned Senior Counsel has to be accepted as correct that the plaintiff has an absolute right to value his suit for the purpose of injunction under Section 7(iv)(d) and jurisdiction and the Court cannot interfere with the same but it is also held that the plaintiff is liable to pay the Court fee on the amount so valued by him. Since in the present case, the plaintiffs have valued the suit at ₹34.00 crores and have paid the Court fees of ₹65/- which is grossly deficient, hence the plaintiffs shall supply the deficient Court fee within four weeks and the matter be listed thereafter.

(Rakesh Kainthla)
Judge

31st May, 2024
(Chander)