

Tara Devi

Vs

Sri Thakur Radha Krishna Maharaj, Through Sebaitis Chandeshwar Prasad and Meshwar Prasad and Another

Special Leave Petition (Civil) No. 7425 of 1987

(A. P. Sen, B. C. Ray JJ)

10.08.1987

ORDER

B. C. RAY, J. -

1. This is a petition on special leave against the judgment and order dated January 11, 1987 of the High Court of Judicature of Patna passed in C.R. No. 1385 of 1985.
2. The plaintiff-respondent filed a suit for declaration that pattas dated December 15, 1948, July 1, 1950, April 24, 1951 and November 26, 1952 executed by Nagendra Prasad Bhagat in the name of defendant 1 were illegal, ineffective and not binding on the plaintiff. There was also a prayer for recovery of possession with mesne profits. The suit was valued on the basis of the rent payable for the land. The defendant filed a written statement and thereafter raised a preliminary objection that the plaintiff has undervalued the suit and also challenged the jurisdiction of the court to entertain the suit. The trial court has held that the suit is governed by Section 7(iv)(c) of the Court Fees Act, 1870 and the plaintiff has rightly valued the leasehold interest created by the lessee. The plaintiff is entitled to put his own valuation of the reliefs claimed. The valuation, it was held, was not arbitrary and unreasonable and as such it was held that the plaintiff has rightly valued the suit and proper court fee has been paid thereon.
3. Against this judgment and order a revision petition being Civil Revision No. 1385 of 1985 was filed in the High Court, Patna. The said revision petition was admitted and thereafter it was referred to the Full Bench for decision of the question whether in a suit for declaration with consequential relief falling under clause (iv)(c) of the Section 7 of the Court Fees Act, 1870, the court has jurisdiction to examine the correctness of the valuation given by the plaintiff and whether the plaintiff has an absolute right or option to place any valuation whatever on the relief claimed in such a suit. It has been held by the High Court considering several decisions including the decisions of this Court in *Sathappa Chettiar v. Ramanathan Chettiar* (AIR 1958 SC 245 : 1958 Mad LJ (Cri) 148 : 1958 SCR 1024) as well as *Meenakshisundaram Chettiar v. Venkatachalam Chettiar* (AIR 1979 SC 989 : (1980) 1 SCC 616 : (1979) 3 SCR 385) that the plaintiff has the right to value the relief claimed according to his own estimation and such valuation has to be ordinarily accepted. The plaintiff however, has not been given the absolute right or option to place any valuation whatever on such relief and where the plaintiff manifestly and deliberately underestimates the relief the court is entitled to examine the correctness of the valuation given by the plaintiff and to revise the same if it is patently arbitrary or unreasonable. The High Court held that the Munsif came to clear finding that the valuation given by the plaintiff was not at all arbitrary or unreasonable and such there was no scope for interference with the said order under revision. The revision application was so dismissed.

4. The instant special leave petition has been filed against the said order. We have heard the learned counsel and in our considered opinion we do not find any merit in the arguments made on behalf of the petitioner. It is now well settled by the decisions of this Court in Sathappa Chettiar v. Ramanathan Chettiar (AIR 1958 SC 245 : 1958 Mad LJ (Cri) 148 : 1958 SCR 1024) and Meenakshisundaram Chettiar v. Venkatachalam Chettiar (AIR 1979 SC 989 : (1980) 1 SCC 616 : (1979) 3 SCR 385) that in a suit for declaration with consequential relief falling under Section 7(iv)(c) of the Court Fees Act, 1870, the plaintiff is free to make his own estimation of the reliefs sought in the plaint and such valuation both for the purpose of the court fee and jurisdiction has to be ordinarily accepted. It is only in cases where appears to the court on a consideration of the facts and circumstances of the case that the valuation is arbitrary, unreasonable and the plaint has been demonstratively undervalued, the court can examine the valuation and can revise the same. The plaintiff has valued the leasehold interest on the basis of the rent. Such a valuation, as has been rightly held by the courts below, is reasonable and the same is not demonstratively arbitrary nor there has been any deliberate underestimation of the reliefs. We, therefore, do not find any reason to grant special leave to appeal asked for in the petition as the order passed in the said revision is unexceptionable. The special leave petition is therefore dismissed. There will however be no order as to costs.

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