

**HIGH COURT OF CHHATTISGARH, BILASPUR****FA No. 557 of 2018**

(Judgment reserved on 17.06.2019)

(Judgment Pronounced on 20.06.2019)

Smt. Neelam Dagla D/o Late Shankar Lal Dagla, W/o D.R. Solanki,
Aged About 45 Years R/o House No. C/238, Bajaj Colony, Sector-2,
New Rajendra Nagar, Raipur, Tahsil & District Raipur Chhattisgarh.

--- **Appellant****Versus**

1. Sarwan Gond S/o Late Purushottam Gond, Aged About 76 Years R/o Uslapur, Sub Tahsil Sakri, Tahsil Takhatpur District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
2. State of Chhattisgarh through the Collector, Bilaspur, Tahsil and District Bilaspur Chhattisgarh. --- **Respondents**

Presence:

For the Appellant :	Mr. Saurabh Sharma, Advocate
For respondent No.1 :	Mr. Ravindra Agrawal, Advocate
For the State/R-2 :	Mr. Gagan Tiwari, Govt. Advocate.

**HON'BLE SHRI JUSTICE P.R. RAMACHANDRA MENON, C.J., &
HON'BLE SHRI JUSTICE GOUTAM BHADURI, J**

CAV JUDGMENT**PER GOUTAM BHADURI, J**

1. The present appeal is against the order dated 18.07.2018 passed by the IX Addl. District Judge, Bilaspur, whereby the suit preferred by the appellant has been dismissed on the ground that proper court fee has not been paid despite opportunity was given for the same.



2. The facts of the case are that the appellant/plaintiff filed a suit for declaration and permanent injunction wherein the suit was valued @ Rs.18 lakhs. In the said suit, the plaintiff has made averments to the effect that she purchased two different lands at village Sakri, Tahsil Takhatpur, Distt. Bilaspur from the defendant/ respondent No.1 by payment of full consideration of sale deed. Thereafter, it is also specifically averred that she was placed in possession of the said land. It is contended that despite the sale deed having been executed and were admitted before the Revenue Authority after a period of time, the respondent at the instance of the outsiders filed a criminal case stating that fraud was played and a criminal complaint was filed wherein by an order dated 17.09.2003 the Additional Sessions Judge despite the fact that the plaintiff/appellant was not a party has made an observation against the plaintiff. The plaintiff further averred that the cost of land is Rs.17-18 lakhs and declaration was sought for with an injunction. The declaration was valued as Rs.500/- and the court fee of Rs.60/- was affixed whereas for the purpose of evaluation, the suit land was valued @ Rs.18 lakhs. The court below held that the suit is valued @ Rs. 18 lakhs and granted few dates to pay the court fee and when the court fee is not paid, eventually dismissed the suit on 18.07.2018 which is subject matter of appeal.

3. Learned counsel for the appellant submits that for the purpose of jurisdiction, the suit was valued at Rs.18 lakhs whereas for the injunction, it was valued as Rs.500/- and the fixed court fee of Rs.50/- was paid. He further submits that



as per section 7 (iv)(d) of the Court Fees Act since no consequential relief was prayed, the plaintiff was not required to pay the ad-valorem court fee and he was free to evaluate the plaint as per his choice. He has placed reliance on a decision of this Court reported in 2015(5) C.G.L.J., 543 Smt. Urvashi Bai Sharma v. Smt. Indumati Sharma.

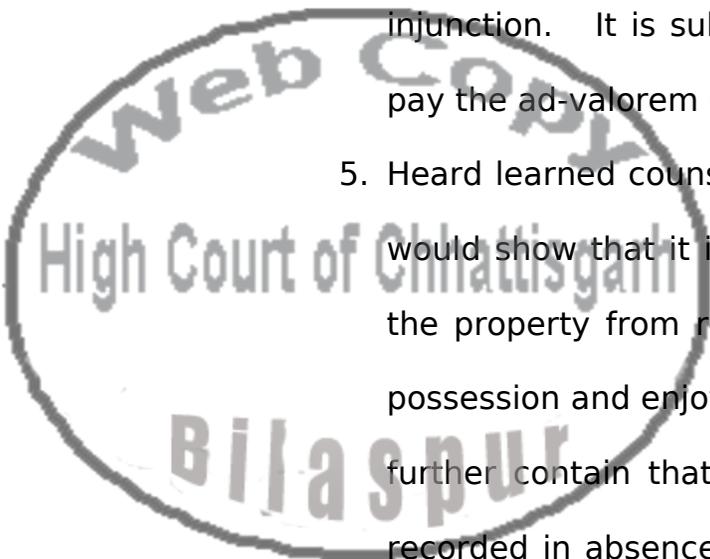
4. Per contra, learned counsel for respondent No.1 submits that as per section 8 of the Suits Valuation Act, for the the purpose of valuation, the court fee value and jurisdiction value are to be the same and there cannot be different valuation for the purpose of jurisdiction and the purpose of injunction. It is submitted that the appellant is required to pay the ad-valorem court fee.

5. Heard learned counsel for the parties. The plaint averments would show that it is stated that the plaintiff has purchased the property from respondent No.1 and thereafter she is in possession and enjoyment of the same. The plaint averments further contain that in a criminal case, certain finding was recorded in absence of the plaintiff in respect of transaction of the said suit property that fraud has been played by the plaintiff. Predominantly to avoid such finding as not binding upon her the declaration coupled with injunction was filed. In the suit, the following relief(s) was claimed :

21. यह कि वादी के पक्ष में तथा प्रतिवादी क्रमांक 1 के विरुद्ध निम्न आशय की अंतिम आज्ञापति पारित करने की कृपा हो :-

अ. वादिनी के पक्ष में तथा प्रतिवादी क्रमांक 1 के विरुद्ध इस आशय की आज्ञापति पारित हो वादिनी के पक्षकार न रहने पर भी विशेष प्रकरण क्रमांक 7/99 में प्रथम अतिरिक्त सत्र न्यायाधीश के द्वारा पारित निर्णय दिनांक 17.09.2003 में वादिनी के पक्षकार न रहने पर उक्त निर्णय में दी गई बातें, टिप्पणी व आदेश वादिनी पर बंधनकारी नहीं हैं।

ब. यह कि वादिनी के पक्ष में तथा प्रतिवादी क्रमांक 1 के विरुद्ध





स्थायी निषेधाज्ञा की आज्ञा पारित की जावे कि प्रतिवादी क्रमांक 1 उसके रिश्तेदार, एजेंट व कार्यकर्ता वादिनी के आधिपत्य की भूमि पर हस्तक्षेप व व्यवधान न करें। ऐसा किये जाने से उन्हे स्थायी रूप से निषेधित किया जावे।

स. यह कि वादिनी को वाद का संपूर्ण व्यय प्रतिवादी क्रमांक 1 से दिलवाया जावे तथा अन्य कोई अनुतोष या आज्ञापति जो प्रकरण की परिस्थितियों मे प्रतिवादी क्रमांक 1 के विरुद्ध एवं वादिनी के पक्ष में पारित करना आवश्यक हो वह भी माननीय न्यायालय वादिनी के पक्ष में तथा प्रतिवादी क्रमांक 1 के विरुद्ध पारित करें।

6. A perusal of the aforesaid relief clause would show that the relief for permanent injunction has been sought for with declaration. It is prayed that the finding recorded in judgment dated 17.09.2003 passed in Criminal Case No. 7/1999 against the fraud of plaintiff in absence of the plaintiff is not binding on her and further the permanent injunction has been claimed that her possession may not be disturbed.

7. The relevant section governing the case would be Section 7(iv)(c) of the Court-fees Act and Schedule-II of Article 17 of The Court fees Act, 1870 as prevailing in the State of Chhattisgarh.

8. For the purpose of discussion, Section 7 of the Court Fees Act is reproduced herein below:

(A) "7. Computation of fees payable in certain suits.-- The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:

* * *

(iv) In suits -

* * *

(c) **for a declaratory decree and consequential relief,-** to obtain a declaratory decree or order, where consequential relief is prayed,

(d) **for an injunction.-** to obtain an injunction,



* * *

according to the amount at which the relief sought is valued in the plaint or memorandum of appeal.

In all such suits the plaintiff shall state the amount at which he values the relief sought ;

(B) Article 17 of SCHEDULE-II READS AS UNDER :--

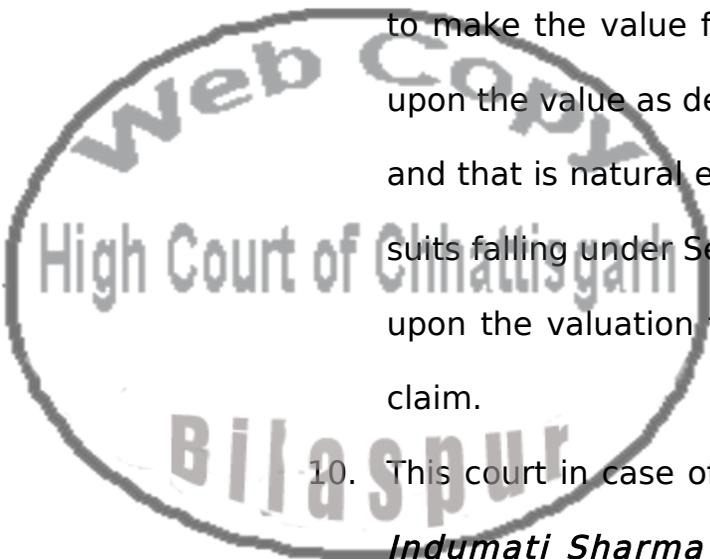
Number		Proper fee
17.	Plaint or Memorandum of appeal in each of the following suits	One hundred Rupees
(i) x x x x	When presented to the Court of Civil Judge	
	When presented to the Court of Civil Judge Class-I	Two hundred rupees
(ii) x x x x	When presented to the Court of Additional District Judge or District Judge	Five hundred rupees
(iii) To detain a declaratory decree when no consequential relief is prayed		
(iv) x x x x		
(v) to set aside an adoption;		
(vi) Every other suit where it is not possible to estimate at a money value the subject matter in dispute and which is not otherwise provided by the Act.		

9. The Supreme Court way back in 1958 has held the value for the purpose of jurisdiction to be decided by reading of section 7(iv) of the Court-fees Act along-with section 8 of the Suits Valuation Act. Section 8 of the Suits Valuation Act



provides that where in any suits other than those referred to in Court-fees Act, section 7, paras 5, 6 and 7 & Para 10, Clause (d), court fees are payable and ad valorem under the Act, the value determinable for the computation of court-fees and the value for the purposes of jurisdiction shall be the same. In other words, so far as suits falling under Section 7, sub-section (iv) of the Court-fees Act are concerned, section 8 of the Suits Valuation Act provides that the value as determinable for the computation of court-fees and the value for the purposes of jurisdiction shall be the same. There can be little doubt that the effect of the provisions of Section 8 is to make the value for the purpose of jurisdiction dependent upon the value as determinable for computation of court-fees and that is natural enough. The computation of court-fees in suits falling under Section 7(iv) of the Court-fees Act depends upon the valuation that the plaintiff makes in respect of his claim.

10. This court in case of *Smt. Urvashi Bai Sharma Vs. Smt. Indumati Sharma* 2015 (5) CGLJ (*supra*) has categorically held that for the purpose of injunction, the value of property would not be a criteria for valuation. In order to assess the valuation of plaint, the relief clause has to be seen. In a case where the fixed court fee is payable according to Schedule-II of Article 17 of the Court Fees Act for relief of declaration, that would be the value for the purpose of pecuniary jurisdiction. Section 8 of the Suit Valuation Act would be inapplicable as it only lays down that for Court fees the value and jurisdictional value would be same. However, to determine pecuniary jurisdiction, the relief clause would be



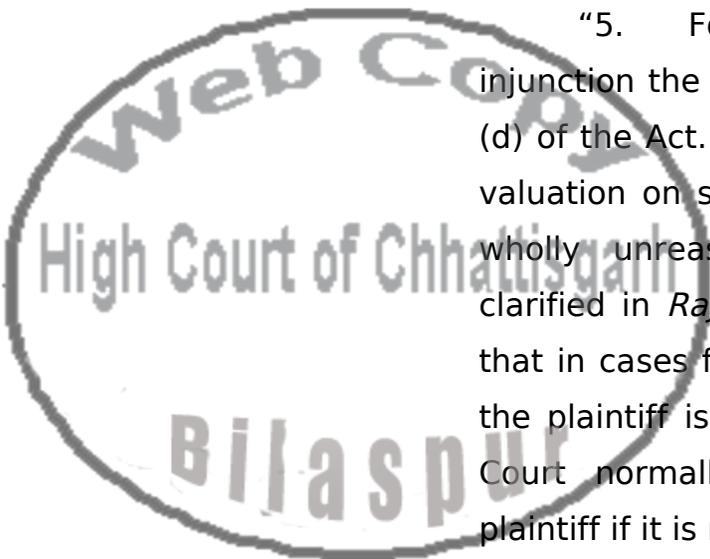


relevant and not the caption of the plaint. In a suit as per Article 17 Schedule (ii) of the Court fee Act when such consequential relief is prayed for, the market value of the immovable property would not be the criteria for the purpose of pecuniary jurisdiction.

11. The result is that the amount at which the plaintiff has valued the relief sought for, for the purpose of court fees can determine the value for the jurisdiction in the suit and not *vice versa*. The M.P. High Court in case of ***Dharamraj Singh Vs. Vaidya Nath Prasad Khare 2002(1) MPHT 301***, at Para 5 of its judgment observed as under :

“5. For claiming the relief of permanent injunction the Court fee payable is as per Section 7(iv) (d) of the Act. The plaintiff is at liberty to put his own valuation on such a relief, of course, it should not be wholly unreasonable or arbitrary. This has been clarified in *Raj Kaur v. Kinetic Gallery 2000(2)MPLJ 72* that in cases falling within paragraph (iv) of Section 7, the plaintiff is entitled to put his own valuation. The Court normally accepts the valuation put by the plaintiff if it is not too low or high.”

12. In view of the foregoing discussion, it is observed that the plaintiff is free to evaluate his suit for the purpose of pecuniary jurisdiction and claim for declaration when fixed court fee is paid according to the Schedule of the Court Fee Act as applicable at Chhattisgarh State. In the present case, the copy of plaint reveals that so far as it relates to relief of declaration, the plaintiff has evaluated his own declaration, therefore, he would not be required to pay the court fee on the value of property for the purpose of pecuniary jurisdiction. In the State of Chhattisgarh, the fixed court fee





of Rs.500/- would be payable when the plaint is presented before the Court of Additional District Judge as per Article 17 Schedule (ii) where declaration is sought for without consequential relief.

13. In the result, the appeal is allowed. The order dated 18.7.2018 is set aside. A perusal of the plaint shows that the plaintiff has already affixed the court fee of Rs.60/- whereas since it is pending before the Additional District Judge the fixed court fee of Rs.500/- would be payable. The plaintiff and respondent No.1 shall appear before the trial Court on 26th August, 2019.

Sd/-

(P.R. RAMACHANDRA MENON)
CHIEF JUSTICE

Sd/-

(GOUTAM BHADURI)
JUDGE

