

CIVIL RULE.

Before B. B. Ghose and Cammiade JJ.

GOLAM RAHAMAN MANDAL.

v.

SABEKJAN BIBI.*

1926

June 14.

*Registration—Valuation of suit—Suit to get a document registered—
Registration Act (XVI of 1908), s. 77.*

In a suit, the sole object was to get a document registered. The suit was not with regard to any land or interest in land. The plaintiffs valued the suit at the value of the property as mentioned in the document :—

Held, that the plaintiff was entitled to put his own valuation of the suit.

CIVIL RULE obtained by the plaintiffs.

The consideration money of a certain *kabala* was, by mutual agreement, settled at Rs. 500. The executants of the document not appearing to register it, registration was refused according to law. There was an appeal before the Registrar for getting the document registered, but registration was refused under section 76 of the Registration Act. Thereupon a suit was filed in the Court of the Munsif at Kalna against the defendant for having the *kabala* executed by the defendant for registration under section 77 of the Registration Act.

The Munsif, instead of deciding the case on the merits under section 77 of the Registration Act, found that the value of the property comprised under the *kabala* was above Rs. 1,000 and that, therefore, he had

* Civil Rule No. 484 of 1926, against the order of A. M. Ahmad, District Judge of Burdwan, dated April 12, 1926.

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no jurisdiction to try the case. He, accordingly, directed the plaint to be returned to the plaintiffs to be presented to a proper Court for trial. The plaintiffs appealed to the District Judge of Burdwan. The District Judge confirmed the decision of the Munsif. The plaintiffs thereupon moved the High Court and obtained this Rule against the defendant.

Dr. Jadunath Kanjilal (with him *Babu Subodh Chandra Datta*), for the petitioners. The lower Courts had no right to consider the value of the property comprised in the *kabala*. There was no question as to court-fees and whether the suit was triable by the Munsif or the Subordinate Judge, the court-fee payable would be Rs. 15. The real point was whether the *kabala* in dispute was really executed for the alleged consideration of Rs. 500 by the defendants. The Court had nothing to do with the value of the land. The Madras Full Bench decision in *Ramu Aiyar v. Sankara Aiyar* (1) referred to a will, where, of course, the value of the estate was to determine jurisdiction. But in a suit under section 77 of the Registration Act, a Court cannot go into any matter affecting the validity of the document apart from its genuineness.

Mr. Sarat Chandra Basu (with him *Babu Nripendra Chandra Das*, *Babu Dharmadas Set* and *Babu Nikunjabihari Ray*), for the opposite party. The Madras Full Bench decision fully supported the contention that the lower Courts were quite competent to decide the value of the land so as to determine the question of jurisdiction. Clause 8 of the Suits Valuation Act had no application, but clause 4 did apply.

GHOSE AND CAMMIADE JJ. In this case, we are of opinion that the plaintiff is entitled to put his own valuation of the suit. The suit is not with regard to any land or interest in land. The sole object of the suit was to get a certain document registered. It was brought under section 77 of the Indian Registration Act. The plaintiff valued the suit at the value of the property as mentioned in the document. Under the circumstances, we are of opinion, that the learned Munsif had full jurisdiction to try the suit. The Rule is, therefore, made absolute and the case is sent back to the Court of first instance for hearing on the merits.

The petitioner is entitled to his costs of this Rule. Hearing fee two gold mohurs. Costs of the lower Courts will abide the final result.

S. M.

Rule absolute.

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