

PARAMESH-
WARAN
NAMBUDIRI
v.
VISHNU
EMBRANDRE.

trial in the Court of First Instance and raises the objection for the first time in this Court.

We therefore hold that we have a discretion to be exercised with reference to the merits of the case. On the merits we are unable to say that any ground for our interference has been made out.

We therefore dismiss the petition with costs.

APPELLATE CIVIL.

Before Mr. Justice Boddam and Mr. Justice Bhashyam Ayyangar.

CHINNAMMAL (PLAINTIFF), APPELLANT,

v.

MADARSA ROWTHER (DEFENDANT), RESPONDENT.*

1903.
September
14.

Court Fees Act—Act VII of 1870, s. 7, IV (c)—Suit for cancellation and delivery of mortgage bond for Rs. 4,000—Valuation of relief by plaintiff at Rs. 50—Duty of Court to accept plaintiff's valuation in suits of this class.

Where cases fall under section 7, paragraph IV, clause (c) of the Court Fees Act, the plaintiff should make a verified statement in his plaint of the amount at which he values the relief sought. Where this has been done, the Court has no jurisdiction to decline to accept the valuation thus given or to revise it. Such a power of revision is limited to cases provided for by section 9, which relates to an estimate given by the plaintiff of the annual net profits of the land or the market value of the land, house or garden as mentioned in section 7, paragraphs V and VI.

Plaintiff sued for the cancellation and delivery up of a mortgage bond for Rs. 4,000, executed in defendant's favour, for which, it was alleged, no consideration had been paid by defendant. The relief claimed was valued in the verified plaint at Rs. 50:

Held, that the Court could not revise the valuation or decline to accept the plaint.

Suit for the cancellation and delivery up of a mortgage bond for Rs. 4,000 executed by plaintiff to defendant. The relief sought was valued in the verified plaint at Rs. 50. Plaintiff's case was

* Civil Miscellaneous Appeal No. 77 of 1903, presented against the decree of Vernon A. Brodie, District Judge of Coimbatore, in Appeal Suit No. 157 of 1901, presented against the decree of T. T. Rangachariar, District Munsif of Erode, in Original Suit No. 542 of 1900.

that she was in need of funds after her husband's death, that an agreement was entered into between her and defendant that plaintiff should execute a mortgage deed for Rs. 4,000 in defendant's favour mortgaging land to him, and that plaintiff should receive the consideration after the document had been registered. Plaintiff now alleged that she had executed the mortgage and that it had been registered, but that defendant had not paid the consideration and refused to return the document; she asked for a declaration that the mortgage had not been completed and for an order for the delivery of the document to her. The District Munsif held that in cases under section 7, paragraph IV (c) of the Court Fees Act, the valuation given by the plaintiff is the valuation to be accepted by the Court. He found that no consideration had been paid by defendant for the mortgage and ordered it to be delivered to plaintiff. Defendant appealed to the District Judge, who considered in the first instance the question of the value placed by plaintiff on the relief sought in the suit. He held that the suit fell under section 7, paragraph IV, clause (c) of the Court Fees Act, and that the proper valuation was Rs. 4,000, and that the lower Court had no jurisdiction to try it. He allowed the appeal and dismissed the suit, and ordered the plaint to be returned to plaintiff for presentation to the proper Court.

Plaintiff preferred this second appeal.

Rangachariar for appellant.

JUDGMENT.—The plaintiff sues, in effect, for the cancellation and delivery up of a mortgage bond for Rs. 4,000 executed by her to the defendant and for purposes of Court fees and jurisdiction the plaintiff valued in the plaint the relief sought at Rs. 50 and verified the same as part of the plaint.

The District Judge is right in holding that the suit falls under section 7, paragraph IV (c) of the Court Fees Act and not paragraph IV (a), but he holds that the valuation of Rs. 50 given by the plaintiff cannot be accepted, and that the true valuation is the amount of the mortgage bond, viz., Rs. 4,000, as mentioned in the plaint. We are clearly of opinion that in cases falling under section 7, paragraph IV, the law expressly provides (and only in that class of suits) that the plaintiff should state in the plaint itself under the sanction of verification the amount at which he values the relief sought, and the Court has no jurisdiction to decline to accept the same or to revise it, a power which is limited to cases

CHINNAMMAL
 v.
 MADARSA
 ROWTHIER.

provided for by section 9 which relates to an estimate given by the plaintiff of the annual net profits of the land or the market-value of the land, house or garden as mentioned in section 7, paragraphs V and VI. If the relief prayed for consequential upon the declaration be the recovery of any of the matters mentioned in paragraphs I, II, III, V, VI, VII, VIII, IX, X, and XI of section 7, the mode of valuing the relief is regulated by the legislature itself in those paragraphs and in such cases the plaintiff must value the relief sought accordingly.

Turning now to the Suit Valuation Act (Act VII of 1887) it will be observed that, under section 8, the valuation given by the plaintiff in the case of suits falling under paragraph IV of section 7 of the Court Fees Act, shall also be the *valuation* for purposes of jurisdiction. Section IX provides *inter alia* that it is competent to the High Court with the previous sanction of the Local Government to frame rules for the valuation of suits referred to in paragraph IV of section 7 of the Court Fees Act and for determining the jurisdiction of Courts, but no such rules have been framed applicable to the cancellation and delivery up of an instrument in writing. Until such a rule is framed the valuation given in the plaint by the plaintiff cannot be revised (*Samiya Marali v. Minammal*(1) and *Gururajamma v. Venkatakrisnamma Chetti*(2)).

We therefore reverse the order of the District Judge dismissing the suit and returning the plaint and remand the case to him for hearing and disposal according to law.

The costs of this appeal will be costs in the cause.

(1) I.L.R., 23 Mad., 490.

(2) I.L.R., 24 Mad., 34.