

1926  
EMPEROR  
v.  
KALWA.

point to the identification of the person charged with the particular act with which the direct evidence connects him.

### MISCELLANEOUS CIVIL.

1926  
February,  
26.

Before Mr. Justice Lindsay and Mr. Justice Mukerji.

BACHHAN (PLAINTIFF) v. THE MUNICIPAL BOARD OF  
MIRZAPUR (DEFENDANT).\*

*Act No. VII of 1870 (Court Fees Act), section 7 (iv) (d)—Act No. VII of 1887 (Suits Valuation Act), section 8—Suit for declaration of title and for an injunction—Valuation for computation of court fees and for purposes of jurisdiction.*

Plaintiff sued (a) for a declaration of his title as to a certain plot of land and (b) for an injunction restraining the defendant from interfering with the construction of a *chabutra* which he desired to erect on the land in question. He valued his suit at Rs. 1,100 for the purposes of jurisdiction and paid a court fee of Rs. 20, *viz.*, Rs. 10 for the declaration of title and Rs. 10 for the injunction sought.

*Held* that as regards the claim for an injunction the proper court fee payable should be an *ad valorem* fee calculated on the valuation given by the plaintiff for the purpose of jurisdiction.

This was a reference as to the correct amount of court fee payable on a plaintiff's suit and two appeals. The facts out of which the reference arose appear from the judgement of the High Court.

Dr. Kailas Nath Katju, for the appellant.

Mr. Sankar Saran, for the respondent.

LINDSAY and MUKERJI, JJ.:—The suit was brought for the purpose of obtaining a declaration of title regarding a certain piece of land in Mirzapur

\* Stamp Reference in Second Appeal No. 1894 of 1925.

1926

BACHHAN  
v.  
THE  
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and for the declaratory relief a court fee of Rs. 10 was paid. Further relief was sought in that the plaintiff asked the court to issue a perpetual injunction restraining the Municipal Board of Mirzapur from interfering in any way with the construction of a *chabutra* which the plaintiff desired to erect on the land in question.

In paragraph 7 of the plaint we find the following :—

“ For purposes of jurisdiction the value of the thing claimed is Rs. 1,100 and for payment of court fee it is Rs. 10, in respect of declaration, and Rs. 10 for the issue of an injunction.”

As regards the relief by way of declaration there can be no dispute. As regards the court fee payable for relief by way of an injunction, that is regulated by section 7(iv) (d) of the Court Fees Act which lays down that in a suit to obtain an injunction the court fee shall be paid according to the amount at which the relief sought is valued in the plaint or memorandum of appeal.

We have to read this along with section 8 of the Suits Valuation Act, VII of 1887, according to which in suits of the class we are now considering the value as determinable for the computation of court fees and the value for purposes of jurisdiction shall be the same. In this case, for purposes of jurisdiction the plaintiff valued what he calls the “ thing claimed ” at Rs. 1,100 and consequently the suit was instituted in the court of the Subordinate Judge. It seems to us, therefore, that having regard to the provisions of the two sections just mentioned the plaintiff was bound to pay a court fee for relief by way of injunction on the valuation of Rs. 1,100 and that is what the office has reported. We direct the appellant to make good the deficiency, for which we allow a month.