

account of arrears of rent, and it is probable that bidders at the sale were influenced by this fact. It is impossible also to expect the full market value of a property to be realised by a sale in court and, in the circumstances, I am unable to say that there has been an inadequacy of price.

In any event, if there was any inadequacy, the appellant is not entitled to any relief because the sale was duly and properly published and conducted.

The appeal, therefore, must be dismissed with costs.

SCROOPE, J.—I agree.

Appeal dismissed.

APPELLATE CIVIL.

Before Dawson Miller, C. J. and Kulwant Sahay, J.

DHATURI SINGH

v.

KEDAR NATH GOENKA.

1927.

March, 22.

Court-fees Act, 1870 (Act VII of 1870), section 8—suit, valuation of, whether can be enhanced for the purpose of jurisdiction.

Under section 8, Court-fees Act, 1870, the valuation for the purposes of jurisdiction and court-fee must be the same; and a party is not entitled, where the valuation of the suit can be correctly ascertained, to enhance it merely for the purpose of jurisdiction.

Plaintiffs sued the appellant for arrears of rent amounting to Rs. 3,593-10-9. In the same suit they claimed enhancement of rent. Under the Court-fees Act the valuation of such a claim is based upon the amount of one year's rent, which, in the present case, was Rs. 718-11-9. The value of the suit for the purposes of court-fee was Rs. 4,312-6-6. For the purposes of jurisdiction, however, the value of the suit was stated to be Rs. 5,100. The suit having been decreed, the defendants appealed to the District Judge, who returned the

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MAHARAJ
BARADUR
SINGH

v.
RAI

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memorandum of appeal on the ground that he had no jurisdiction to hear the appeal. The defendants, therefore, presented the memorandum to the High Court.

Held, that the valuation of the suit for the purpose of jurisdiction should have been Rs. 4,312-6-6, and that the proper forum for the appeal was the Court of the District Judge and not the High Court.

The facts of the case material to this report are stated in the order of the court.

S. Dayal, for the appellant.

DAWSON MILLER, C.J. AND KULWANT SAHAY, J.—
The appellant in this case is in the unfortunate position of having had his memorandum of appeal rejected by the learned District Judge on the ground that he had no jurisdiction to hear the appeal and when he presented his memorandum of appeal in the High Court the learned Registrar decided that the High Court had no jurisdiction to hear the appeal but that the proper court was the district court and the matter has been referred to this Bench for final orders. The case stands thus. The plaintiffs brought a suit against the appellant claiming arrears of rent which were valued at Rs. 3,593-10-9. In the same suit they claimed an enhancement of rent and under the Court-fees Act the valuation of such a claim is based upon the amount of one year's rent, in this case Rs. 718-11-9. The total amount claimed therefore was Rs. 4,312-6-6 which amount we are informed was actually stated in the plaint for the purpose of estimating the court-fee. In the same document, however, the value of the suit was stated to be Rs. 5,100 for the purposes of jurisdiction. It is quite clear that the plaintiffs in the suit were wrong in giving one valuation for the purpose of court-fees and another valuation, which appears to be a purely arbitrary valuation, for the purposes of jurisdiction. It is provided in section 8 of the Suits Valuation Act that valuation for the purposes of jurisdiction and court-fee shall be the same. The learned District Judge when the matter went before

him merely referred to the fact that the suit had been valued for the purposes of jurisdiction at Rs. 5,100 and, if that were right, it was clear that he had no jurisdiction to hear the appeal but that the High Court was the proper tribunal. When the matter came before this court, and the appellant who was the defendant had no option in the matter, the Registrar pointed out that the proper valuation both for the purposes of jurisdiction and for the purposes of court-fee was the lower valuation, namely Rs. 4,312-6-6 and that in these circumstances the proper court was the Court of the District Judge and not this court. The matter has been referred to us and we think that the learned Registrar was right in the conclusion at which he arrived. A party is not entitled, where the valuation of the suit can be correctly ascertained as in this case, to put a purely fancy value on the suit for the purpose of jurisdiction. Where the value can be ascertained as in this case he cannot enhance the value merely for the purpose of jurisdiction. The result is that we must return this memorandum of appeal for presentation in the proper court which is the Court of the District Judge and at the same time we must set aside the order of the District Judge dated the 21st January, 1927, refusing to try the case on the ground that he had no jurisdiction.

Order set aside.

APPELLATE CIVIL.

Before Dawson Miller, C. J. and Kulwant Sahay, J.

JAGDESH CHOWDHURY

v.

RADHA DUBEY.*

1927.

DHATURI
SINGH
v.
KEDAR
NATH
GOENKA.

1927.

March, 22

Court-fees, refund of—High Court, inherent power of—second appeal dismissed on the ground of non-maintainability—court-fee, whether should be refunded.

*Second Appeal no. 97 of 1927.