

## APPELLATE CIVIL.

---

*Before Mr. Justice Campbell and Mr. Justice Moti Sagar.*

GANGA SINGH AND *Mst.* JIWANI (DEFENDANTS) 4

Appellants,

*versus*

SHER SINGH AND OTHERS (PLAINTIFFS) Respon-  
dents.

Civil Appeal No. 1538 of 1921.

*Declaratory suit—that a certain deed of adoption executed by a widow shall not affect the plaintiffs' reversionary rights after the death of the widow—Valuation of—for purposes of jurisdiction.*

The plaintiffs sued for a declaration to the effect that a certain deed of adoption executed by *Mst. J.* should not after her death or remarriage affect their reversionary rights. They valued their suit for purposes of jurisdiction at Rs. 6,895-15-0, being 30 times the land revenue on certain land *plus* the value of certain houses, and affixed a court-fee of Rs. 10 to their plaint. The suit was dismissed by the trial Court. The plaintiffs appealed to the District Judge who accepted their appeal and granted them the declaration sought in respect of a portion of the estate of *Mst. J.* The defendants preferred a second appeal to the High Court, and urged *inter alia* that the appeal from the first Court's decree lay not to the District Court but to the High Court.

*Held*, that the suit not being one for annulling an adoption but for a declaration that the adoption should not affect the plaintiffs' reversionary rights was correctly valued for purposes of jurisdiction at Rs. 6,895-15-0, and the appeal from the first Court's decree lay consequently to the High Court and not to the District Court.

High Court's Rules and Orders, Volume III, page 90, rule 1 (*iv*), referred to and distinguished.

*Second appeal from the decree of Lt.-Col. F. C. Nicolas, Additional District Judge, Jullundur, dated the 16th March 1921, reversing that of Lala Munna*

1924

June 11.

*Eal, Subordinate Judge, 1st Class, Jullundur, dated the 14th April 1919, and decreeing the claim.*

BADRI DAS and FAKIR CHAND, for Appellants.

RAM CHAND, MANCHANDA and JAGAN NATH, BHANDARI, for Respondents.

The judgment of the Court was delivered by—

CAMPBELL J.—The plaintiffs Sher Singh and others sued for a declaratory decree to the effect that the deed of adoption, dated the 18th July 1918, executed by *Mussammat* Jiwani in favour of Ganga Singh in respect of her landed estate detailed in the plaint should not after her death or remarriage affect the reversionary rights of the plaintiffs and defendants 4 to 10. The value of the suit for purposes of jurisdiction was stated to be Rs. 6,895-15-0, calculated at 30 times the land revenue on certain land *plus* the value of certain houses and a court-fee of Rs. 10 was paid on the plaint. The suit was dismissed by the trial Court and the plaintiffs appealed to the District Judge who accepted their appeal and granted them the declaration sought in respect of a portion of the estate of *Mussammat* Jiwani.

The defendants have preferred a second appeal to this Court, the first ground of which is that the decree of the lower Court was without jurisdiction since the appeal from the first Court's judgment lay not to the District Court but to this Court. This contention on the face of it is valid since the jurisdictional value of the suit in the trial Court was put in the plaint at over Rs. 6,000. The learned counsel for the plaintiff-respondents has argued that a mistake was made in fixing the value at Rs. 6,895-15-0 because under the rules of this Court it could not have been more than Rs. 1,000. He relies upon rule 1 (*iv*) on page 90,

1924

GANGA SINGH  
v.  
SHER SINGH.

1924

GANGA SINGH  
v.  
SHER SINGH.

Rules and Orders of the High Court, Volume III, according to which a suit for a decree annulling an adoption is for purposes of the Court-fees Act to be valued at Rs. 200 and for purposes of the Suits Valuation Act and the Punjab Courts Act to be valued at such sum exceeding Rs. 500 and not exceeding Rs. 1,000, as the plaintiff shall state in his plaint. The present suit, however, was not one for annulling an adoption but one for a declaration that an adoption or appointment of an heir should not affect the plaintiffs and certain defendants. Furthermore the plaintiffs did not pay court-fee on a valuation of Rs. 200, but only paid Rs. 10 treating their suit from the very first as one to obtain a declaratory decree without consequential relief.

We accept the appeal on this ground and set aside the decree of the lower appellate Court. We direct that Court to return the memorandum of appeal to the plaintiffs for presentation, if so advised, in the Court competent to dispose of it. The defendant-appellants in this Court will have their costs in this Court, but in the District Court parties shall pay their own costs.

A. R.

*Appeal accepted.*