

APPELLATE CIVIL.

Before Sir Shadi Lal, Chief Justice and Mr. Justice Zafar Ali.

BUDHA MAL (DEFENDANT) Appellant

versus

RALLIA RAM AND OTHERS (PLAINTIFFS)

Respondents.

1927

May 13.

Civil Appeal No. 189 of 1923.

*Suit for account, and amount due thereon—Valuation of—
for purpose of jurisdiction—tentative value given in plaint,
or the amount ascertained by Court—Appeal—Forum—Court-
fees Act, VII of 1870, sections 7 (iv), (f) and 11.*

Where the plaintiff sued for rendition of accounts and, praying for a decree for the amount that might be found due to him, valued his relief approximately at Rs. 1,100 but was granted a decree for Rs. 11,000 odd.

Held, that it was the amount ascertained by the trial Court to be due to the plaintiff, and not the sum at which he had valued his claim tentatively and approximately, which should be regarded as the value of the suit for the purpose of determining the *forum* of the appeal.

Mamon Mal v. Abdul Aziz (1), *Manna Lal v. Samandu* (2), *Ijratulla Bhuvan v. Chandra Mohan Banerjee* (3), and *Ibrahimji Issaji v. Bejanji Jamsedji* (4), followed.

Putta Kannayya Chetti v. Rudrabhatta Venkata Narasayya (5), and *Muhammad Abdul Majid v. Ala Bakhsh* (6), not followed.

First appeal from the decree of H. B. Anderson, Esquire, Senior Subordinate Judge, Gurdaspur, dated the 13th November 1922, decreeing the claim.

BADRI DAS, KIDAR NATH, CHOPRA, and HEM RAJ, for Appellant.

MOTI SAGAR and MEHR CHAND, MAHAJAN, for Respondents.

(1) 58 P. R. 1902.

(2) 46 P. R. 1906.

(3) (1907) I.L.R. 34 Cal. 954 (F.B.).

(4) (1895) I. L. R. 20 Bom. 265.

(5) (1916) I. L. R. 40 Mad. 1.

(6) (1925) I. L. R. 47 All. 534.

ORDER.

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BUDHA MAL

v.

RALIA RAM.

SHADI LAL C. J.

SIR SHADI LAL C. J.—This appeal arises out of a suit for the rendition of accounts, and the question of law debated before us is whether the appeal is cognizable by the High Court or by the District Court. A perusal of the plaint shows that the plaintiffs valued their relief tentatively and approximately at Rs. 1,100 and asked the Court to grant them a decree “for the amount that may be found due to them on rendition of accounts”. The Subordinate Judge, who exercises an unlimited pecuniary jurisdiction, has passed a decree for Rs. 11,000 odd in favour of the plaintiffs and directed them to make up the deficiency in the court-fee.

Against this decree the defendant has preferred the present appeal, and Mr. Moti Sagar for the respondents raises the preliminary objection that the appeal lies, to the District Judge, and not to this Court. The question for determination is whether the *forum* of appeal is determined by the amount at which the plaintiff values the relief sought by him or by the amount found by the trial Court to be due to him. There is a divergence of judicial opinion on the subject, but the view taken by the Punjab Chief Court in *Mamon Mal v. Abdul Aziz* (1), and *Manna Lal v. Samandu* (2), and subsequently followed by this Court, is to the effect that it is the amount found by the Courts to be due to the plaintiff, and not the value put by him on his relief, which must be regarded as the value of the suit for the purpose of determining the Court to which the appeal lies. The same rule has been laid down by a Full Bench of the Calcutta High Court in *Ijratulla Bhuvan v. Chandra*

(1) 53 P. R. 1902.

(2) 46 P. R. 1906.

Mohan Banerjee (1), and by the Bombay High Court in *Ibrahimji Issaji and others v. Bejanji Jamsedji and another* (2). The Madras and the Allahabad High Courts have, however, adopted the view that the amount at which the plaintiff values his relief, though approximately, determines the *forum* of the suit as well as of the appeal, *vide Putta Kannayya Chetti v. Rudrabhatta Venkata Narasayya* (3), and *Muhammad Abdul Majid v. Ala Bakhsh* (4).

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It will be observed that section 7 (*iv*) (*f*) of the Court-fees Act allows the plaintiff to put his own value upon the relief sought by him, but section 11 of the Act makes it clear that, when a higher sum is found due to him, he must make good the deficiency in the court-fee before he can execute the decree. It is beyond dispute that the value fixed by the plaintiff in the plaint is only a tentative one, and there is no valid reason why this approximate value should be treated as binding upon the parties for the purposes of determining the *forum* of the suit as well as that of appeal. If the contention urged on behalf of the respondents be accepted, it would lead to some absurd results. Suppose, the plaintiff values his claim in the plaint at Rs. 500 and institutes his suit in a Court whose jurisdiction is limited to suits of which the value does not exceed Rs. 1,000. Not only would the trial Court be competent to pass a decree for Rs. 1,00,000, if such sum is found due to the plaintiff, but an appeal from that decree would lie to a Subordinate Judge of the first Class, whose decision on questions of fact would be final. The Courts should avoid, as far as possible, an interpretation of law which would lead to an absurdity of this character.

(1) (1907) I. L. R. 34 Cal. 954 (F. B.). (3) (1916) I. L. R. 40 Mad. 1.

(2) (1895) I. L. R. 20 Bom. 265. (4) (1925) I. L. R. 47 All. 534.

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It is unnecessary to examine the various judgments which have been cited at the bar, because as I have already stated, a difference of opinion undoubtedly exists on the subject. Suffice it to say that after considering the matter carefully I am not prepared to dissent from the rule, which has been consistently followed in this province, that the amount ascertained by the Court to be due to the plaintiff, and not the sum at which he values his claim tentatively and approximately, should be regarded as the value of the suit for the purpose of determining the *forum* of the appeal. I accordingly hold that the appeal is cognizable by this Court, and that the preliminary objection must be overruled.

ZAFAR ALI J.

ZAFAR ALI J.—I agree.

N. F. E.

*Appeal admitted for hearing
by the High Court.*
