

Tara Devi vs Sri Thakur Radha Krishna Maharaj, ... on 10 August, 1987

Equivalent citations: AIR1987SC2085, JT1987(3)SC258, 1987(2)SCALE252, (1987)4SCC69, 1987(2)UJ329(SC), AIR 1987 SUPREME COURT 2085, (1987) 2 CURLJ(CCR) 640, (1987) 2 APLJ 40, 1987 RAJLR 484, 1987 HRR 509, 1987 2 UJ (SC) 329, (1987) PAT LJR 55, 1987 4 JT 258, (1987) 3 JT 258 (SC), (1987) 2 GUJ LH 381, 1987 (4) SCC 69, (1987) 2 SUPREME 235

Bench: A.P. Sen, B.C. Ray

ORDER

1. This is a petition on special leave against the judgment and order dated January 11, 1987 of the High Court of Judicature of Patna passed in C.R. No. 1385 of 1985.

2. The plaintiff-respondent filed a suit for declaration that pattas dated 15.12.1948, 1.7.1950, 24.4.1951 and 26.11.1952 executed by Nagendra Prasad Bhagat in the name of defendant No. 1 were illegal, ineffective and not binding on the plaintiff. There was also a prayer for recovery of possession with mesne profits. The suit was valued on the basis of the rent payable for the land. The defendant filed a written statement and thereafter raised a preliminary objection that the plaintiff has undervalued the suit and also challenged the jurisdiction of the Court to entertain the suit. The Trial Court has held that the suit is governed by Section 7(IV)(c) of the Court Fees Act, 1870 and the plaintiff has rightly valued the lease hold interest created by the lessee. The plaintiff is entitled to put his own valuation of the reliefs claimed. The valuation, it has been held, was not arbitrary and unreasonable and as such it was held that the plaintiff has rightly valued the suit and proper court fee has been paid thereon.

3. Against this judgment and order a Revision Petition being Civil Revision No. 1385 of the 1985 was filed in the High Court Patna. The said Revision Petition was admitted and thereafter it was referred to the full bench for decision of the question whether in a suit for declaration with consequential relief falling under Clause (iv)(c) of Section 7 of Court Fees Act. 1870, the Court has jurisdiction to examine the correctness of the valuation given by the plaintiff and whether the plaintiff has an absolute right or option to place any valuation whatever on the relief claimed in such a suit. It has been held by the High Court considering several decisions including the decisions of this Court in Sathappa Chettiar v. Ramanathan Chettiar as well as Meenakshisundaram Chettiar v. Venkatachalam Chettiar that the plaintiff has the right to value the relief claimed according to his own estimation and such valuation has to be ordinarily accepted. The plaintiff however, has not been given the absolute right or option to place any valuation whatever on such relief and where the plaintiff manifestly and deliberately underestimates the relief the Court is entitled to examine the correctness of the valuation given by the plaintiff and to revise the same if it is patently arbitrary or unreasonable. The High Court held that the Munsif came to a clear finding that the valuation given

by the plaintiff was not at all arbitrary or unreasonable and as such there was no scope for interference with the said order under revision. The revision application was so dismissed.

4. The instant special leave petition has been filed against the said order. We have heard the learned Counsel and in our considered opinion we do not find any merit in the arguments made on behalf of the petitioner. It is now well-settled by the decisions in this Court in *Sathappa Chettiar v. Ramanathan Chettiar* (supra) and *Meenakshisundaram Chettiar v. Venkatachalam Chettiar* (supra) that in a suit for declaration with consequential relief falling under Section 7(iv)(c) of the Court Fees Act, 1870, the plaintiff is free to make his own estimation of the reliefs sought in the plaint and such valuation both for the purposes of court fee and jurisdiction has to be ordinarily accepted. It is only in cases where it appears to the Court on a consideration of the facts and circumstances of the case that the valuation is arbitrary, unreasonable and the plaint has been demonstratively undervalued, the Court can examine the valuation and can revise the same. The plaintiff has valued the lease hold interest on the basis of the rent. Such a valuation, as has been rightly held by the Courts below, is reasonable and the same is not demonstratively arbitrary nor there has been any deliberate underestimation of the reliefs. We, therefore, do find any reason to grant special leave to appeal asked for in the petition as the order passed in the said Revision is unexceptional. The special leave petition is therefore dismissed. There wilt however be no order as to costs.