

Lal Dhananjay Singh vs Lal Bhim Bikram Singh And Anr. on 5 September, 1952

Equivalent citations: AIR1953ALL442

ORDER

Misra, J.

1. This revision application filed by the Chief Inspector of Stamps, U.P. relates to court-fee payable by the plaintiff Lal Vir Dhananjai Singh in a suit filed by him in the Court of Civil Judge, Gonda. According to his court-fee report made in the Court below there was a deficiency of Rs. 856/14/-.

2. The suit was for declaration that the plaintiff is the rightful successor to the estate of his father Lal Harihar Pratap Singh as heir or as legatee under his will executed in 1939 and further that he is entitled as such to half share of the monthly heritable pension of Rs. 200/-, which his father got from the Government. It would appear from the allegations contained in the plaint that the plaintiff's predecessor-in-interest Raja Udai Prakash Singh, whose estate was confiscated during the mutiny, was later on granted by the Government a number of villages and a heritable pension of Rs. 300/- per month for his own maintenance and the maintenance of his dependents as the earlier order of confiscation was found to be unjustified. The ultimate liability for the payment of this pension was made to rest on the Maharaja of Kapurthala to whom taluqa Ikauna belonging to Raja Udai Prakash Singh was given after confiscation. The Maharaja used to deposit Rs. 1800/- every six months under arrangement with the Government in the Bahraich treasury. During the life time of Raja Udai Prakash Singh the entire sum was paid to him by the Government.

After his death it was divided between his brother Umrao Singh and Lal Harihar Pratap Singh, the plaintiff's father, the latter's share being Rs. 200/- per month. On the death of Lal Harihar Pratap Singh the plaintiff and defendant 1 Lal Bhim Bikram Singh, it was alleged, inherited this pension and each of them is entitled to get Rs. 100/- per month, but the latter fraudulently got his name entered in the papers as the sole heir of Lal Harihar Pratap Singh. It was further stated that a sum of Rs. 15600/- has now accumulated and is in the Government treasury at Bahraich in respect of the pension due to the heirs of Lal Harihar Pratap Singh for the period October 1942 -- May 1948. The plaintiff Lal Vir Dhananjai Singh, therefore, claimed the following reliefs :

(a) A declaratory decree to the effect that the plaintiff is the rightful legatee or heir of his father and is as such entitled to half of the accumulated sum, that is Rs. 7800/- and Rs. 100/- per month hereafter as maintenance,

(b) The costs of the suit, and

(c) Any other relief to which he may be found entitled.

3. The Chief Inspector of Stamps claimed that what the plaintiff sought in substance was a decree for recovery of Rs. 7800/- and a declaration to the effect that he is entitled to an annuity of Rs. 100/- per month. According to him these were consequential reliefs and, therefore, 'ad valorem' court-fee of Rs. 728/2/- was payable in respect of Rs. 7800/- and a further sum of Rs. 146/14/- on 12 times the annuity was due under Section 7(ii)(a), Court-fees (Amendment) Act, The total of these two amounts came to Rs. 875/-, but since Rs. 18/12/- had already been paid by the plaintiff, he reported that there was a deficiency of Rs. 856/4/-. The learned Civil Judge, Gonda, did not accept the report and the Chief Inspector of Stamps has, therefore, come up to this Court by way of revision.

4. The suit related to a right in respect of pension and was filed after obtaining the necessary sanction of the Deputy Commissioner, Bahraich under Section 6, Pensions Act. That Section also provides against the passing of an order or decree whereby the liability of the Government to pay the pension may be directly or indirectly affected. Thus the relief claimed in the present suit in view of Section 6 could not contain a prayer for a consequential relief and on the plain language of the plaint it is not possible to hold that a consequential relief was sought. Paragraph 2 of Section 7, Court-fees Act, relates to suits for recovery of maintenance and annuities or other sums periodically payable. It has no application to a suit for a bare declaration of the plaintiff's right to receive arrears of pension or to get periodical payments in future. The suits referred to there are those which terminate inexecutable decrees enabling the plaintiff to get under the order of the Court the arrears of maintenance or annuities claimed. Suits for mere declaration would obviously be governed by Article 17(iii). Schedule II, which prescribes a fixed court-fee of Rs. 18/12/- when no consequential relief is prayed for. In my judgment the view taken by the learned Civil Judge is correct.

5. The application is dismissed with costs.