

Md. Ishaq vs Abdul Majeed on 9 December, 1953

Equivalent citations: AIR1954ALL455, AIR 1954 ALLAHABAD 455

ORDER

Brij Mohan Lall, J.

1. This is an application in revision by a defendant.
2. A suit has been instituted by the opposite party against the applicant and is pending in the court of the learned first Additional Munsif of Allahabad. Several causes of action have been combined in that suit. There is only one plaintiff and one defendant. The applicant who, as already stated, is the defendant, raised an objection to the effect that there was a defect of mis-joinder of causes of action. The learned Munsif has overruled this plea and has rightly pointed out that Rule 3 of Order 2, Civil P. C. permits a plaintiff to unite in the same suit several causes of action against the same defendant or the same defendants jointly: Since the law has conferred on the plaintiff opposite party the right to have his several disputes with the applicant decided in one suit and since the plaintiff has chosen to combine all the causes of action in one suit, he has done nothing contrary to law. No question. of convenience or inconvenience is material under Rule 3 of Order 2, Civil P. C.
3. It may, however, be conceded that, although law has given this privilege to a plaintiff, it has, at the same time, invested the court with power to order separate trials provided it finds it convenient to try or dispose of the different causes of action in one suit. This is provided by Rule 6. But this privilege of ordering the trial to be split up into two or more trials is given to court alone. The defendant cannot claim it as of right. If the court does not find it inconvenient to try the suit as brought the plaintiff is certainly entitled to continue the suit in the form in which he has filed it. In the present case, the learned Munsif has said that "there is not much inconvenience" in trying the suit. This means that he does not find it inconvenient to try the suit in its present form. He has refrained from ordering separate trials. Since the learned Munsif has not chosen to split up the trial, the defendant has no right to claim separate trials in respect of different causes of action. For this reason, this revision must fail.
4. There is yet another reason, viz., that the decision of the learned Munsif is after all a finding on one of several issues involved in the case. No revision can lie against a finding recorded by a court on any issue. The finding does not amount to a case decided.
5. The application must, therefore, fail. It is hereby rejected.