

C.O. 4189 of 2012

Rajesh Narayan & Ors.

-vs-

Smita Chatterjee & Anr.

Mr. Sibaprasad Bhattacharyya
Ms. Debaleena Chatterjee
... for the petitioners

Mr. Souradipta Banerjee
Ms. Fatima Hassan
... for the Opposite Parties

Heard Learned Lawyer for the Petitioners.

Perused the impugned order.

The matter has been pending since 2012 only on a short point whether the valuation of the suit is correct and whether appropriate Court Fees has been paid or not. The original suit is for declaration. The suit is valued accordingly and Court Fees is paid in terms of the Section 7 of the West Bengal Court Fees Act, 1970. Thus, Court Fees is paid on the basis of relief sought.

“Thus, the standard to go by is the value of the relief sought, not the value of the subject matter of the suit as in Section 7 (v) ibid. In other words, the subject matter of the suit is not the subject matter in the suit.” [Mustafa Shah vs Dhanu Shah (70 CWN 1137)].

The question of Court Fees, whether sufficient or insufficient, can be decided at any stage of this suit before passing the judgment. It

is aberration of justice to keep the *lis* pending for years after years.

The Trial Court committed error in deciding that the suit should be valued on the basis of the subject matter being oblivious of the fact that the court fees is payable on the basis of relief prayed for. In passing the impugned order, the Trial Court exercised jurisdiction with the material irregularity. Therefore, the impugned order demands interference.

Accordingly, I dispose of the instant Civil Revisional Application with the order that the impugned order passed by the Learned Trial Judge is set aside with a request to take up the issue at the time of final hearing with a further request to expedite the trial and disposal of the suit as early as possible.

Civil Revisional Application being C.O. 4189 of 2012 is, accordingly, disposed of.

(Sugato Majumdar, J.)