

M/L 47  
06.05.2024  
Court. No. 22  
*Suvayan*

**CO 1176 of 2016**

**Sanjana Chatterjee & Ors.  
Vs.  
Smt. Sefali Biswas & Anr.**

*Mr. Arijit Bardhan  
Mr. Rishabh Dutta Gupta*

*...for the petitioners.*

*Mr. Nilanjan Adhikari*

*...for the opposite parties.*

1. Both the parties are represented by their respective learned Advocates.
2. The affidavit-of-service as filed by the learned Counsel for the petitioners be taken on record.
3. I have heard Mr. Bardhan, learned Counsel appearing on behalf of the petitioners and Mr. Adhikari, learned Counsel on behalf the opposite parties.
4. The instant revisional application is now taken up for passing appropriate order.
5. In this revisional application as filed under Article 227 of the Constitution of India the plaintiff has impugned the order dated 17.02.2016 as passed in Title Suit No. 74 of 2015 by the learned Civil Judge (Senior Division), 5<sup>th</sup> Court, Alipore, South 24 Parganas whereby and whereunder the said Court though rejected the defendants' application under Order VII Rule 11 of the Code of Civil Procedure that is for rejection of plaint but at the same time

the said Court directed the plaintiff to amend the valuation portion of the plaint as per provision of Section 7(iv)(c) of the West Bengal Court Fees Act, 1970 (hereinafter referred to as the said 'Act'). The plaintiff felt aggrieved with such observation of the learned Trial Court and thus preferred the instant revisional application.

6. In course of hearing, Mr. Bardhan learned Counsel appearing on behalf of the plaintiffs/petitioners at the very outset draws attention of this Court to the copy of the plaint of Title Suit No. 74 of 2015 being Annexure-A as filed before the learned Trial Court. It is argued that on a cursory perusal of the prayer portion of the said plaint and the valuation statement as available at the top of the internal page No. 2 of the said plaint it would reveal that the said suit has been properly valued and thus there cannot be any occasion to amend the valuation statement and to file more court fees. It is thus submitted that the finding of the learned Trial Court is faulty and thus appropriate order may be passed by this Court.
7. While refuting the contention of the learned Counsel for the petitioner, Mr. Adhikari, learned Counsel appearing on behalf of the opposite parties submits before this Court that the finding of the Trial Court so far as the valuation of the said suit is concerned is perfectly justified inasmuch as the said suit is under valued as in the said plaint the

plaintiff has not only made an attempt to avoid two deeds, viz., deed of adoption and deed of gift and at the same time prayed for recovery of possession claiming that they are the owners of the suit property.

8. This Court has meticulously gone through the copy of the plaint as filed before the learned Trial Court including its prayer portion. This Court has also gone through the certified copy of the impugned order.
9. On perusal of the prayer portion of the plaint it reveals that in the prayer portion of the said plaint plaintiffs have sought for various declarations and by way of consequential reliefs the plaintiffs have sought for permanent injunction as well as for recovery for 'kash' possession in respect of the suit properties. It further reveals from the said plaint that it is the case of the plaintiff that the defendant No. 1 of the said suit was originally a maid-servant under one Manilal Banerjee @ Bhattacharjee and taking advantage of his loneliness, since he was a bachelor, two deeds came to be executed by exercise of undue influence, fraud, coercion, etc. and thus by virtue of the said two deeds the defendant No. 1 as well as the defendant No. 2 could not have acquired any right, title and interest over the suit property and they are according to the plaintiffs are rank trespasser.

10. At this juncture if I look to the valuation statement of the plaint, it reveals that the valuation statement of the plaint is as under:

***“Suit for declaration, injunction, recover of possession and mense profit valued (for declaration Rs. 2,000/-, injunction Rs. 1,000/-, for recovery of possession of Rs. 60,000/- and for mense profit Rs. 1,000/- tentatively thus) at Rs. 64,000/- (Rupees Sixty Four Thousand) only.”***

11. On perusal of such valuation statement as made in the plaint, this Court finds that the valuation for injunction is perfectly in order since such a valuation has been made according to the amount at which the relief has been sought for and, therefore, a direction to pay further court fees under Section 7(iv)(c) of the said Act as passed by the learned Trial Court is not tenable in the eye of law. So far as the prayer for recovery of possession is concerned it appears from the said plaint that the plaintiffs described the defendants as trespassers and, therefore, the plaintiffs have valued the suit so far as recovery of possession is concerned in accordance with Section 7(vi)(b)(ii) of the said Act.
12. In view of the discussion made hereinabove, this Court thus finds no justification on the part of the learned Trial Court directing the plaintiffs to pay

further *ad valorem* court fees on the plaint as presented by the plaintiffs.

13. Accordingly, impugned the order dated 17.02.2016 as passed in Title Suit No. 74 of 2015 by the learned Civil Judge (Senior Division), 5<sup>th</sup> Court, Alipore, South 24 Parganas is modified to the extent indicated hereinabove. Learned Trial Court is hereby directed to proceed with Title Suit No. 74 of 2015 without insisting upon payment of any additional court fees.
14. Since this is a suit of 2015, this Court directs the opposite parties/defendants to file their written statement within a month from today, if not filed in the meantime. This Court further directs that after filing of the written statement, the trial court shall frame issues within a month and thereafter shall proceed with the suit in *de-die-in-diem* manner and shall pass a reasoned judgment preferably within one year from today.
15. With the aforesaid observation, the revisional application being CO 1176 of 2016 is disposed of.
16. Both the parties and the learned Trial Court are directed to act on the server copies of this order.
17. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

**(Partha Sarathi Sen, J.)**