

CHAPTER 3

Valuation of Suits

Part A GENERAL

1. General—It should be remembered that the value of a suit for the purposes of the Court-fees Act, 1870, and its value for the purposes of jurisdiction are not necessarily identical, and are frequently very different. The value for the purposes of Court-fee is determined by the Court-fees Act, 1870 (as amended), and for purposes of jurisdiction by the Suits Valuation Act, 1887, and the rules, made thereunder. In certain classes of suits the value for the purposes of Court-fee also can be fixed by rules under Section 9 of the Suits Valuation Act.

2. Part I of Suits Valuation Act extended to Punjab—Part I of the Act was extended to this State by Central Government, Home Department, Notification No. 210, dated the 20th February, 1889, and the Punjab Government has made rules under Section 3 of the Act determining the value of land and of certain interests therein, for purposes of jurisdiction in the suits mentioned in the Court-fees Act, 1870, Section 7, paragraphs (v) and (vi) and paragraph (x), clause (d), which are republished in Part D of this Chapter.

3. Rules under Section 3 of the Act apply to all classes of land in the Punjab—No restrictions under Section 3, sub-section (2), of the Suits Valuation Act have been imposed as to the classes of land to which the rules apply, or as to the local extent of their operation, and they apply, therefore to all land generally throughout the State, whether assessed to land revenue or not.

4. Land suits falling under Section 7(iv) or Article 17, 22, Schedule II of the Court-fees Act—Section 4 of the Suits Valuation Act provides that, where a suit mentioned in the Court-fees Act, Section 7 paragraph (iv), or Schedule II, Article 17 or 22, relates to land or an interest in land, of which the value has been determined by the rules made under Section 3, the amount and which the relief sought in the suit is valued for purposes of jurisdiction should not exceed the values of the land or interest as determined by those rules.

5. Other suits under Section 7 of Court-fees Act—The suits falling under the Court-fees Act, Section 7, paragraphs (i), (ii), (iii), (iv), (vii), (viii), (x) (a), (b), and (c); and (xi) (a) to (f), inclusive, are either such as are subject to an *ad valorem* (according to value) Court-fee in regard to which the value for the purposes of computing the Court-fee and the value for the purpose of

determining jurisdiction are under Section 8 of the Suits Valuation Act, 1887, the same; or suits deals with by direction made by the High Court under Section 9 of the Suits Valuation Act.

6. Value of suits governed by rules made under Section 9, Suits Valuation Act—Section 8 of the Suits Valuation Act gives the general rule as stated above, but when the value of a suit for purposes of jurisdiction and Court-fees is determined by rules under Section 9 (*ibid*), the value as determined by the rules must be accepted.

7. Plaintiff should show value for purposes of Court-fees and jurisdiction—In order to guard against mistakes as to the value of suit for purposes of jurisdiction and of Court-fees, respectively, every plaintiff ought upon its face to show the value for purposes of jurisdiction as well the value for the purposes of computing Court-fees. The former information is requisite in order that the Court may determine whether the plaintiff should be returned under Order VII, Rule 10, of the Code of Civil Procedure. When a plaintiff omits to disclose the value of the suit for the purposes of jurisdiction, the person presenting it should be questioned, and answer recorded on the plaintiff, unless he consents to amend it then and there.

8. Value in cases governed by Section 7(iv) and Schedule II, Article 17 of the Court-fees Act—Special care is necessary with respect to cases falling under the provisions of Section 7, Paragraph (iv) and Schedule II, Article 17, of the Court-fees Act in valuing suits for the purposes of jurisdiction and Court-fees. A table showing the value of different classes, of suits for purposes of jurisdiction and Court-fees, following the classification of suits in the Court-fees Act, has been prepared and attached to this Chapter. It must be clearly understood, however, that this table in itself has no legal force, and that is merely intended for ready reference by the Courts in dealing with questions of value.

9. Value of certain suits left to judicial decision—There is no express provision in the Suits Valuation Act, 1887, in regard to the classes of suits mentioned below and they do not admit of being disposed of by rules under Part I, nor are they dealt with by directions under Part II of the Act. The valuation of such suits, therefore, must be left to judicial decision, as occasion arises. The suits are:

suit for houses;

suits for pre-emption in respect of houses;

suits for removal of attachment of houses;

suits falling under Schedule II, Article 17, Clause (iv), which are not provided for by the rules under Section 3 or directions under Section 9, or by Section 4 of the Suits Valuation Act; suits falling under Section 7, sub-section (x), clause (d) of the Court-fees Act, and relating to property other than land.

10. Fixing valuation not necessary in certain cases—In the case of some classes of suits or petitions, *e.g.*, suits under Section 28 of the Sikh Gurdwaras Act, 1925, or petitions under the Guardians and Wards Act, 1890, the law allows no choice as regards the Court in which

proceedings must be taken. There is, therefore, no necessity in such cases to fix any valuation for the purpose of determining jurisdiction.

Part B
VALUE OF THE SUBJECT-MATTER OF SUITS FOR THE
PURPOSES OF APPEAL

1. General—Under the Punjab Courts Act, 1918, the number of appeals in a suit and the Court of Appeal are determined partly by the nature of the suit and partly by its value; and serious inconvenience results to Judges of superior Courts, as well as Suitors when the record of the original Court does not disclose the value of the suit.

The value of the suit as fixed by the plaintiff or as determined by the Court in the event of its being disputed should, therefore, be always stated on the face of the final judgment and the decree in the suit.

The term “value”, as used in the Punjab Courts Act with reference to a suit, means the amount or value of the subject-matter of the suit.

2. Valuation should be stated in judgment and decree. Meaning of value—When the copies filed with the memorandum of appeal do not disclose the value, the Appellate Court should, in doubt, send for the record, which may show the value. In all cases in which the record does not show the value, the Appellate Court must ascertain and determine whether the value of the suit as instituted (not the value of the subject matter of appeal) does or does not exceed the limits of its appellate jurisdiction.

3. Objections as to value—When either the appellant or the respondent takes exception to the valuation determined by the lower Court, the point must be decided like any other point taken in appeal or by way of cross-objection. It should be noted, however, that according to Section 11 of the Suits Valuation Act, no objection as to valuation can be entertained in appeal unless it was taken in the trial Court before the issue were framed and recorded; or in the lower Appellate Court, in the memorandum of appeal to that Court and unless the Appellate Court is satisfied (for reasons to be recorded in writing) that the suit or appeal was not properly valued, and that the mistake in valuation had prejudicially affected the disposal of the suit or appeal on merits. This rule applies in all cases of erroneous valuation except in suits for accounts where value for purposes of jurisdiction as determined by the Court at any stage shall be final and conclusive and shall not be liable to be contested in appeal or revision (Punjab Act XIII of 1942). In this connection also please see A.I.R. 1952 Punjab 200.

4. Suits for accounts—In a suit for the amount found to be due after taking accounts, it is not the tentative valuation of the plaintiff but the amount found to be due and decreed by the Court, that determines the forum of appeal (I.L.R. XI Lah. 23).

5. Suits for redemption of mortgage—The valuation of a suit for redemption of mortgaged property is now governed by rules framed under Section 9 of the Suits Valuation Act, 1887. (*Vide* Rule 9 of Part C of this Chapter). This rule governs only the value for the purposes of the

suit and for the purposes of the appeal the rule laid down by a Full Bench of the High Court in I.L.R. VII Lahore 570, still holds good. In I.L.R. 1954 Punjab 342 (D.B.) it has been held, following I.L.R. VII Lahore 570, that the forum of appeal in a redemption suit is governed, not by the original jurisdictional value of the suit but by the amount which is found by the Court to be due. Where the amount of the jurisdictional value in appeal is over [Rs. 20 lakhs] the appeal under the Punjab Courts Act, 1918, lies to the High Court and not to be the District Judges Court.

COMMENTS

In the absence of any legislative enactment or statutory rule the valuation of a suit depends upon the value of the subject matter which in a redemption suit is the amount which the mortgagor should, before recovering the mortgaged property, pay to the mortgagee, and this depends upon the adjudication of the Court and not on the valuation given by the plaintiff which can be regarded as only a tentative valuation and is subject to the decision of the Court. *Jaswant Ram and Others v. Moti Ram and Others*, (1926) I.L.R. VII Lah. 570. (*Hazara Singh v. Lal Singh*, 63 P. R. 1891, and *Muhammad Khan v. Ashok Muhammad Khan*, 106 P. R. 1895 (F. B.), overruled.) (*Mussamat Rajo v. Dasu*, 44 P. R. 1888 (F. B.), *Muhammad Afzal Khan v. Nand Lal*, 16 P. R. 1908 (F. B.), and *Abdur Rahman v. Charag Din*, 19 P. R. 1908 (F. B.), approved.) (*Kedar Singh v. Motabadal Singh*, (1908) I.L.R. 31 All. 44, and *Jalaldeen Marakayar v. Vijayaswami*, (1915) I.L.R. 39 Mad. 447 differed from.)

Part C

MANNER OF DETERMINING THE VALUE OF SUITS FOR PURPOSES SPECIFIED IN SECTION 9 OF THE SUITS VALUATION ACT, 1887

Rules

Rules made by the High Court with the previous sanction of the State Government, under the powers conferred by Section 9 of the Suits Valuation Act, 1887, and all other powers in that behalf, for determining for the purposes specified therein, the value of the subject-matter of certain classes of suits which do not admit of being satisfactorily valued, and for the treatment of such classes of suits as if their subject-matter were of the value as hereinafter stated:

1. (i) Suits in which the plaintiff in the plaint asks for a decree against the other party to an alleged marriage, either alone or with other defendants, for restitution of conjugal rights.
- (ii) Similar suits for a decree establishing, annulling or dissolving a marriage or for a declaration that a marriage is void or has been annulled, dissolved or otherwise terminated.
- (iii) suits in which the plaintiff in the plaint ask for a decree establishing an adoption or declaring it void including under the expression “appointment” customary appointment of an heir—

Rs.

Value — (a) for the purposes of the Court-fees Act, 1887.....200

(b) for the purposes of the Suits Valuation Act, 1887,
and the Punjab Courts Act, 19181,000

Explanation—Classes (i) and (ii) do not include petition under any special Act relating to the dissolution of marriage.

2. Suits by a plaintiff, during the lifetime of a person alleged to have a restricted power of alienation in respect of immovable property, in which the plaintiff in the plaint seeks to have an alienation of immovable property made by such person declared to be void, except for the life of such person or for some other determinate period:

Value—(a) For the purposes of the Court-fees Act, 1870—as determined by that Act.

(b) For the purposes of the Suits Valuation Act, 1887, and the Punjab Courts Act, 1918:

(i) When the alienation is by a written instrument which declares the value of the interest purporting to be created, or the amount of the consideration for which the alienation is made such value or amount.

(ii) In other cases—the market value, at the date of the institution of the suit, of the property alienated.

Subject in either case to the provisions of Part I of the Suits Valuation Act, 1887, and of the rules in force under the said Part, so far as those provisions are applicable.

3. Suits in which the plaintiff in the plaint asks for accounts only not being:

(i) Suits to recover the amount which may be found due to the plaintiff on taking unsettled accounts between him and the defendant.

(ii) Suits of either of the kinds described in Order **XX**, Rule 13 of the Code of Civil Procedure.

Rs.

Value— (a) For the purposes of the Court-fees Act, 1887.....200

(b) For the purposes of the Suits Valuation Act, 1887,
and the Punjab Courts Act, 1918.....1,000

4. (i) Suits in which plaintiff in the plaint seeks to recover the amount which may be found due to the plaintiff in taking unsettled accounts between him and the defendant.

COMMENTS

Although the Punjab High Court has framed rules under Section 9 of the Suits Valuation Act which are applicable to the Union Territory of Delhi, such rules do not lay down any standard of valuation with regard to suits coming under Section 7(iv) of the Court-fees Act. Under Rule 4(i) of High Court Rules, the value of suit for accounts for purposes of Court-fee will be as determined by the Court-fees Act, which means that the valuation of the relief will have to be made by the plaintiff under Section 7(iv)(f) of the Court-fees Act.

In a suit for accounts it is almost impossible for the plaintiff to value the relief correctly, so tentative valuation by plaintiff should be accepted by Court. *M/s. Commercial Aviation and Travel Company v. Mrs. Vimla Pannalal*, AIR 1988 S.C. 1636.

Suit for permanent injunction, infringement of copy right and passing off.—Value of relief for the purpose of jurisdiction—No doubt law provides that in case of relief for rendition of account when the amount is not ascertained the plaintiff cannot be asked to give a specific and ascertained figure of the amount on which relief is sought in the suit. But that does not give a licence to

plaintiff to give a wholly arbitrary and unreasonable figure so as to divest a Court which has got the jurisdiction to try the suit and to invest a Court which would not have the jurisdiction to try the suit by giving a higher valuation so as to bring suit within the pecuniary jurisdiction of this Court. *Wockhardt Veterinary Ltd. v. M/s. Raj Medicos*, 1998 (6) AD (Delhi) 1 : 1998 RLR 353.

(ii) Suits of either of the kinds described in Order **XX**, Rule 13 of the Code of Civil Procedure:

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|---|--|
| (a) Value for the purpose of Court-fee | (a) As determined by the Court-fees Act, 1870. |
| (a) Value for the purpose of jurisdiction | (b) For the purposes of the Suits Valuation Act, 1887, and the Punjab Courts Act, 1918, as valued by the plaintiff in the plaint, subject to determination by the Court at any stage of the trial. |

5. Suits in which the plaintiff in the plaint seeks to establish or to negative any right hereinafter mentioned, with or without an injunction, and with or without damages, namely:

a right of way; a right to open or maintain or close a door or a window, or a drain, or a water spout (parnala); a right to or in a water course or to the use of water; a right to build, or raise alter or demolish a wall; or to use an alleged party wall or joint staircase:

Value— (a) For the purpose of the Court-fees Act, 1870 :

Rs.

(i) Suits to establish a right whether or not injunction is for 130

(ii) Suits to establish a right and for damages whether or not injunction is prayed for 130

Plus such sum as is claimed as damages.

(b) For the purposes of the Suits Valuation Act, 1887, and the Punjab Courts Act, 1918, as for the purposes of the Court-fees Act, 1870.

6. Suits in which the plaintiff in the plaint seeks to set aside an award and applications registered as suits under the provisions of Sections 20 and 31 of the Indian Arbitration Act, X of 1940 (to file an agreement to refer to arbitration or to file an award), when or so far as the award or the agreement relates to property:

Value—(a) For the purposes of the Court-fees Act, 1870, as determined by that Act.

(b) For the purposes of the Suits Valuation Act, 1887, and the Punjab Courts Act, 1918 (as amended), the market value of the property in dispute, subject to the provisions of Part I of the Suits Valuation Act, 1887, and of the rules, in force under the said Part, so far as those provisions are applicable.

7. Suits in which the plaintiff in the plaint asks for a mere declaration without any consequential relief in respect of property other than land assessed to land revenue.

Value—(a) For the purposes of the Court-fees Act, 1887, as determined by that Act.

(b) For the purposes of the Suits Valuation Act, 1887, and the Punjab Courts Act, 1918—the market value of the property in dispute, at the date of institution of the suit, subject to the provisions of Part I of the Suits Valuation Act, 1887, and the rules in force under the said Part, so far as those provisions are applicable.

8. Suits for partition of property—

Court-fee—(a) As determined by the Court-fees Act, 1870.

Value—(b) For the purposes of the Suits Valuation Act, 1887 and the Punjab Courts Act, 1918 the value of the whole of the property as determined by Sections 3, 8 and 9 of the Suits Valuation Act, 1887.

COMMENTS

Value for purpose of jurisdiction is value of whole property sought to be partitioned. *Jagdish Pershad v. Joti Pershad*, 1975 Raj LR 230 : 1975 ILR (Del.) 841.

9. Suits in which the plaintiff in the plaint asks for redemption of the property mortgaged or foreclosure of the mortgage:

Value—(a) For the purposes of the Court-fees Act, 1870—as fixed by Section 7(ix) of that Act.

(b) For the purposes of the Suits Valuation Act, 1887, and the Punjab Courts Act, 1918—the amount of the principal and interest calculated on the terms of the mortgage at the date of the institutions of the suit.

10. Suits in which the plaintiff asks for cancellation of a decree for money or other property having a money value, or other document securing money or other property having such value:

Value—(a) For the purposes of the Court-fees Act, 1870 as determined by that Act.

(b) For the purposes of the Suits Valuation Act, 1887, and the Punjab Courts Act, 1918—according to the value of the subject-matter of the suit, and such value shall be deemed to be:

(i) If the whole decree or other document is sought to be cancelled, the amount or the value of the property for which the decree was passed or the other document executed.

(ii) If a part of the decree or other document is sought to be cancelled, such part of the amount or value of the property.

11. The foregoing rules are subject to the following explanations—

(i) the term “plaint” includes an amended as well as original plaint;

(ii) a suit falling within any of the above description is not excluded therefrom merely by reason of the plaintiff seeking other relief in addition to that described in any of the foregoing rules.

Note—These rules came into force on the 2nd January, 1943.

(High Court Notification No. 363-R/XXX-3, dated the 2nd December, 1942).

Part D

MANNER OF DETERMINING THE VALUE OF LAND FOR PURPOSES OF JURISDICTION IN CERTAIN CLASSES OF SUITS

Rules made by the State Government, under the power conferred by Section 2 of the Suits Valuation Act, 1887, and published as Punjab Government Notification No. 255, dated the 4th March, 1889, for determining the value of land for purposes of jurisdiction in the suits mentioned in the Court-fees Act, Section 7, paragraphs (v) and (vi), and paragraph (x), clause (d).

1. Suits for possession of land—In suits for the possession of land the value of the land, for purposes of jurisdiction, shall be held to be as follows—

(a) Where the land forms an entire estate, or a definite share of an estate paying annual revenue to Government or forms part of such an estate, and the annual revenue payable for such part is recorded in the Collector's register, and such revenue is permanently settled,—sixty times the revenue assessed on the land.

(b) Where the land forms an entire estate, or a definite share of an estate paying annual revenue to Government, or forms part of such estate and as recorded as aforesaid, and revenue is settled but not permanently,—thirty times the such revenue so payable.

Explanation to clause (b)—Where the land is a fractional share or a portion or part of an estate, and the land-revenue payable for such part is recorded in the Collector's register and such revenue is not permanently settled, the value, for purposes of Jurisdiction, shall be held to be thirty times such portion of the revenue recorded in respect of that part as may be rateably payable in respect of the share or portion.

Illustration—(1) In a suit for possession of a one-third of the entire holding of ten ghummaons forming part of an estate, and recorded as paying Rs. 20 annual revenue, the value of the land, for the purposes of jurisdiction, is one-third of thirty times Rs. 20 or Rs. 600.

(2) In a suit for possession of one ghummaon out of the same holding the value of the land is one-tenth of thirty times Rs. 20 or Rs. 60.

(c) where the land pays no such revenue, or has been partially exempted from such payment, or is charged with any fixed payment in lieu of such revenue, and net profits have arisen from the land during the year next before the date of presenting the plaintiff,—fifteen times such net profits. But where no such net profits have arisen therefrom—the market-value.

(d) Where the land forms part of an estate paying revenue to Government, but is not a definite share of such estate does not come under clauses (a), (b) or (c) of this rule—the market-value of the land.

(dd) Where land holding tax is leviable on the land, the market-value there of as calculated under Clause (v) of the Court-fees Act 1870.

(e) Where the subject-matter is a garden, the market-value of the garden.

2. Suits for pre-emption—In suits to enforce a right of pre-emption in land, the value of the land, for the purpose of jurisdiction shall be calculated by the preceding rules.

3. Suits falling in different classes—When the land or interest in suit falls partly under one and partly under another, of the classes enumerated in Rule 1, the value of the land in each class shall be separately calculated.

4. ‘Land’ defined—In the application of the above rules the word “land” includes all such rights, *e.g.*, shares in village common and in wells as are accessory to the land in suit, and the word “revenue” as used in the preceding rules, when applied to land irrigated from canals, shall be held to include owner’s rate for the year next before the date of presentation of plaint, or half the occupier’s rate for the same period in cases in which no owners rate is chargeable.

5. Suits for specific performance of award—In suit for specific performance of an award so far as the awarded relates to land—the market value of the land.

6. Suits relating to life interest in land and to occupancy rights—Suits relating to a life-interest in land and suits relating to an occupancy right shall, for purposes of jurisdiction, be deemed to be half of the value provided for suits for possession under Rule 1.

1. Substituted for “Rs. five lakhs” by Act No. 35 of 2003 (w.e.f. 16-7-2003).