

## E. MANNER OF DETERMINING THE VALUE OF SUITS FOR PURPOSES OF JURISDICTION

(Section 9, Suits Valuation Act, 1887)

### RULE<sup>1</sup>

Rule made by the High Court, with the previous sanction of the Local Government, under the powers conferred by Section 9 of the Suits Valuation Act, VII of 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:

**Note 1.** A suit for restitution of conjugal rights with an injunction restraining certain persons from preventing the re-union was valued at Rs.1,000 only. It was held that the relief for injunction was merely ancillary and the value of the suit was Rs.1,000 only under rule (1).<sup>2</sup>

(ii) Similar suits for a decree establishing, annulling or dissolving a marriage or for a declaration that marriage is void or has been annulled, dissolved or otherwise terminated;

**Note.** A suit for mere declaration that the plaintiff is no the wife or husband of the defendant as given out by either (that is, for jactitation of marriage) falls within the category of rule 1(ii), and Court-fee must be paid as fixed in this rule (*Mst. Begi v. Nawab*--Civil Miscellaneous Appeal No. 285 of 1932 in the High Court of Judicature at Lahore).

(iii) Suit in which the plaintiff in the plaint asks for a decree establishing an adoption or declaring it void including under the expression "adoption" the customary appointment of an heir-

Value- (a) For the purposes of the Court-fees Act, 1870 Rs.200

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

Rs. 1,000

**Explanation.** Clauses (i) and (ii) do not include petitions 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 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.

**Note 1.** As Section 9 does not empower the High Court to frame Rules in respect of land, Rule 2 framed by the High Court refers to immovable property and not to land which evidently means that it deals with immovable property other than land.<sup>3</sup>

**3.** Suits in which the plaintiff in the plaint asks for account 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;

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3. AIR 1937 Lah. 677; 172 I.C 675 (DB). App. (B)--Punjab Rules (E)--Rule 5--Note 1.

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Value-- (a) For the purposes of the Court-fees Act, 1870 Rs.200  
(b) For the purposes of the Suits Valuation Act, 1887, and the Punjab Courts Act, 1918. Rs.1,000

4. (i) Suits in which the plaintiff in the plaint seeks to recovery 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;

Value for the purpose of Court-fee (a) As determined by the Court-fees Act, 1870.

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 hereafter 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 waterspout (parnala); a right to or in a watercourse or to the use of water; a right to build, or raise, or alter or demolish a wall, or to use an alleged part-wall or joint staircase:**

**Value- (a) For the purposes of the Court-fees Act, 1870-**

**(i) Suits to establish a right-whether or not injunction is prayed for.**

**Rs.130**

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

**Rs.130**

**Plus such sum as is claimed as damages;**

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

**Note 1. A suit for the issue of a perpetual injunction to the effect that the defendant be ordered to demolish the wall built by him near**

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the plaintiff's ventilator and that he be restrained from building a second storey on his shop within five feet of the window of the plaintiff was held virtually to fall under Rule 4 (now R.5) and therefore must be valued at a sum exceeding Rs.100 and not exceeding Rs.500.<sup>4</sup>

Rule 4 (now R. 5) was held inapplicable to a suit for an injunction restraining the municipal committee from demolishing a thara not constructed in accordance with the sanction.<sup>5</sup>

See also the under-mentioned cases.<sup>6</sup>



**6. Suits in which the plaintiff in the plaint seeks to set aside an award, and application registered as suits under the provisions of sections 20 and 31 of the 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, 1870, as determined by that Act.**

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4. AIR 1934 Lah. 796; 1955 Ind. Cas. 153.

5. AIR 1929 Lah. 566; 116 Ind. Cas. 908 (DB) (Under S. 7 iv (d), Court-fees Act the plaintiff is entitled to value the plaint for the purpose of Court-fee at any figure he chooses and under S. 8, Suits Valuation Act, the value for the purpose of jurisdiction is to be the same as that for the purpose of Court-fee).

6. AIR 1904 Pun. Re. No. 6, page 31 (FB), (Suit for maintaining a door of a house-Held, value of suit for purposes of S. 70(b), clause (ii) of Punjab Courts Act was the value for jurisdiction assessed by plaintiff). AIR 1946 Lah. 94; 224 Ind. Cas. 4 (FB).

(Suit for declaration with consequential relief of injunction for removal of train falling under old R. 4(b)-Value for jurisdiction should be as determined by the rule-Plaintiff can put his own valuation for Court-fee) 1904 Pun. L.R. No. 118, page 419 (Suit for declaration and injunction against municipality-Relief of injunction, held could be valued according to old R.4 under S.9) 1900 Pun. L.R. No.30, page 135, Lakhu v. Sundar Das. (Mortgagor plaintiff sued for a declaration that defendant mortgagee was not entitled to improve the house mortgaged and that he be enjoined not to prevent the plaintiff from doing so-Held that the suit comes under old R.4.)

- (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.

### 9. Suits in which the plaintiff in the plaint asks for redemption of 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 institution 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 explanation:-**

- (i) The terms "plaint" includes an amended as well as an original plaint;**
- (ii) A suit falling within any of the above descriptions is not excluded therefrom merely by reason of the plaint seeking other relief in addition to that described in any of the foregoing rules.**