

liable to objection. If the President had the power to make the rules of business, as we have held he had under the Proclamation, it cannot be said that he did not have the power to make the rules operate retrospectively. The power to make the rules must be read beneficently. The President had to carry on the business of the Government and for that purpose he had the power to make rules for transacting executive business and if he could make them prospectively, there is no reason why he would not be able to make them retrospectively with effect from the date of the Proclamation."

The contention that the power to make rules with retrospective effect may mean making rules prior to the enforcement of the parent Act or the delegation and therefore, it should not be sustained, is met with the short reply that such is not the case before us. All that has happened in the instant case is that by the impugned amendment, a fiction has been created that the Explanation in question should be deemed to have been inserted when the rules were originally made. This is clearly permissible under the law. If the delegate in some other case makes a rule which suffers from the infirmity suggested on behalf of the appellant, it would be examined on its own facts in the background of the legislative scheme and language of the delegation. I express no opinion on such a hypothetical case.

In the result, this appeal fails and is dismissed but without costs.

R. P. KHOSLA, J.—I agree.

B. R. T.

REVISIONAL CIVIL

Before Daya Krishan Mahajan, J.

KAHAN SINGH,—*Petitioner*

versus

GURDEV SINGH AND OTHERS,—*Respondents*

Civil Revision No. 679 of 1965.

April 21, 1966.

Court Fees Act (VII of 1870)—as amended by Punjab Amendment Acts (26 of 1949 and 31 of 1953)—S. 7(iv)(c)—Suit for declaration and consequential relief relating to agricultural land—Court fee payable—Whether 10 times the land revenue or 30 times the land revenue.

Kahan Singh *v.* Gurdev Singh, etc. (Mahajan, J.)

Held, that a suit to obtain a declaratory decree where consequential relief is prayed for, is governed by section 7(iv)(c) of the Court Fees Act and according to the Punjab Amendment Act 26 of 1949 and the Punjab Amendment Act 31 of 1953, the value of the suit for purposes of court-fee is *ad valorem* on the amount of relief sought as valued and stated in the plaint by the plaintiff. Where the suit relates to land assessed to land revenue and the settlement is not permanent, the court-fee is 10 times the land revenue and the jurisdiction value is 30 times the land revenue, but in a suit for declaration both the values for purposes of jurisdiction and court-fee have to be the same. As the value for jurisdiction is fixed at 30 times, the value for purposes of court-fee will thus be 30 times the land revenue in a suit under section 7(iv)(c) of the Court Fees Act, relating to agricultural land.

Petition under section 115 of the Code of Civil Procedure, 1908, for revision of the order of the Court of Shri Bachan Singh, Sub-Judge, 1st Class, Mansa, dated the 14th June, 1965.

DALIP CHAND GUPTA, ADVOCATE, for the Petitioner.

K. C. PURI, ADVOCATE, for the Respondents.

JUDGMENT

MAHAJAN, J.—This is a petition for revision against the order of the Court demanding Court-fees on the value of Rs 50,000 in a suit for a declaration that the mortgage on the land in dispute is without consideration and is, therefore, null and void.

Mr. Puri, learned counsel for the respondents, raised a preliminary objection that no revision is competent. This objection must fail in view of the Full Bench decision of this Court in *Krishan Kumar Grover v. Smt. Parmeshri Devi and others* (1).

According to the table given in Volume I, Chapter 3-D of the High Court Rules and Orders, suit to obtain a declaratory decree and order where consequential relief is prayed for, is governed by section 7(iv)(c) and according to the Punjab Amendment Act 26 of 1949 and Punjab Amendment Act 31 of 1953, the value of the suit for purposes of Court fees is *ad-valorem* on the amount of relief sought as valued and stated

(1) I.L.R. (1966) 1 Punj. 694=1966 P.L.R. 54.

in the plaint or memorandum by the plaintiff. The minimum Court-fees payable is Rs 10. It is also provided that when relief sought is with reference to property, such valuation would not be less than the value of the property as calculated in the manner provided in Section 7(v) of the Court-fees Act, where the suit relates to land assessed to land revenue and the settlement is not permanent, the Court-fees is 10 times the land revenue and the jurisdiction value is 30 times the land revenue; but in a suit for declaration, both the value for purposes of jurisdiction and Court-fees have to be the same. As the value for jurisdiction is fixed at 30 times, the value for purposes of Court-fees will thus be 30 times in a suit under section 7(iv) (c) relating to agricultural land. That being so, the order of the Court below, that the stamp on the plaint is insufficient is correct. However, the order is erroneous in so far as the Court-fees is being claimed on the mortgage money, that is Rs 50,000.

For the reasons recorded above, I modify the order of the trial Court to this extent that the *ad-valorem* Court-fees will be payable on the basis of 30 times the amount of land revenue assessed on the land. The parties are directed to appear in the trial Court on 16th of May, 1966.

B. R. T.

LETTERS PATENT APPEAL

Before D. Falshaw, C.J., and H. R. Khanna, J.

KAHLA SINGH AND OTHERS,—*Appellants*

versus

RAJINDER SINGH AND OTHERS,—*Respondents*

Letters Patent Appeal No. 265 of 1965.

April 21, 1966.

Punjab Pre-emption Act (I of 1913) as amended by Act of 1960 S. 15(2)—Property gifted to a female by her father, brother or husband—Whether can be said to be property to which the female has succeeded through her father, brother or husband.