

1959 Present : Basnayake, C.J., and X. D. de Silva, J.

SUBRAMANIAM *et al.*, Appellants, and SEENIAR *et al.*, Respondents

S. C. 687—D. C. Jaffna, 423/L

Stamp duty on legal proceedings—Assessment—Stamp Ordinance, Schedule—Civil Procedure Code, s. 40.

The stamp duty on legal proceedings should be computed on the value of the subject matter of the action and not on the relief prayed for.

Plaintiffs sought to recover from the defendants the sum of Rs. 1,500 as damages for the obstruction of the way and water course from the common well to the plots of land cultivated by them. According to the plaint, the value of the subject matter of the action, which was the rights sought to be vindicated, was Rs. 2,500.

Held, that the value for the purpose of stamp duty was that of the rights sought to be vindicated and not the sum claimed as damages.

APPPEAL from a judgment of the District Court, Jaffna.

C. Ranganathan, for 1st and 2nd Defendants-Appellants.

N. Kumarasingham, with *V. Arulambalam*, for Plaintiffs-Respondents.

V. Tennekoon, Senior Crown Counsel, with *J. W. Subasinghe*, Crown Counsel, as *Amicus Curiae* (on notice).

September 2, 1959. BASNAYAKE, C.J.—

This appeal has been listed by the Registrar for a direction as to whether it should be listed in due course for hearing as there is a deficiency of Rs. 3 in the stamps delivered by the appellant to the Secretary of the District Court for the decree of the Supreme Court. The value of the subject matter of this action according to the plaint is Rs. 2,500. The 1st and 2nd defendants-appellants have not disputed that value in their answer. Learned counsel for the appellants contends that the value for the purpose of stamp duty is Rs. 1,500 which is the amount of damages claimed by the plaintiffs for the obstruction of the way and water course from the common well to the plots of land cultivated by them. It has been decided by this Court in the case of *Silva v. Fernando*¹ that stamp duty on legal proceedings should be computed on the value of the subject matter of the action and not on the relief prayed for. *Wendt J.* observes at p. 378—

“The Stamp Ordinance, No. 3 of 1890, Schedule B, Part II, prescribes stamp duty on actions according to their value, but what it is that is to be appraised in order to fix this value it does not specify.

¹ (1908) 11 N. L. R. 375.

In the absence of such statement, I think we ought to appraise the 'subject matter', meaning thereby the thing (whether land, chattel, money, or interest in one of these, or right or status) which the Court in deciding the action has to determine the ownership of, not merely 'relief' in the sense of that which the plaint expressly asks for and the decree expressly grants."

The Schedule of the Stamp Ordinance now in force is not different from that of the Ordinance of 1890. We are in respectful agreement with that view.

In this action the plaintiffs sought to have their rights of way and water course from the common well to their agricultural plots, which the defendants obstructed and damaged, vindicated. The subject matter of the action is the rights they sought to vindicate and the approximate value of which they stated, as they are required to do by section 40 of the Civil Procedure Code, and not the damages they claimed. There is therefore a deficiency of stamp duty and the appeal is accordingly rejected with costs payable to the respondents.

DE SILVA, J.—I agree.

Appeal rejected.

