

SUPREME COURT OF AZAD JAMMU AND KASHMIR

[Appellate Jurisdiction]

PRESENT:

Ch. Muhammad Ibrahim Zia, C.J.

Civil PLA No.33 of 2017

(Filed on 16.03.2017)

Major (R) Ch. Tariq Aziz s/o Alhaj Abdul Aziz, caste Jat
r/o House No.465 Sector F/3, Part 1st, Mirpur.

.. PETITIONER

VERSUS

1. Roznama Jinnah, Islamabad through Chief Editor
Khurshnood Ali Khan,
2. Khushnood Ali Khan, Chief Editor Roznama Jinnah,
15 Jinnah Building Sittara Market G-7, Markaz,
Islamabad.
3. Sujah Jarral Bureau Chief Reporter Roznama
Jinnah, Allama Iqbal Road, Sector B/3, Mirpur.

.... RESPONDENTS

(On appeal from the judgment of the High Court dated
25.01.2017 in Civil Revision No.66/2012)

FOR THE PETITIONER: Mr. Muhammad Azeem
Dutt, Advocate.

FOR THE RESPONDENTS: Mr. Muhammad Sajjad,
Advocate.

Date of hearing: 18.04.2017

ORDER:

Ch. Muhammad Ibrahim Zia, C.J.— The petitioner, herein, filed a suit for recovery of Rs.15,00,00,000/- for damages in the Court of District Judge, Mirpur on 11.04.2012. He was directed to deposit the Court fee worth Rs.15,000/- by the Court on 15.04.2012. Feeling aggrieved, from the said order he filed a revision petition before the High Court on the ground that according to Suit Valuation Act, the maximum Court fee is provided as Rs.3,000/-, so, demand to deposit Rs.15,000/- as Court fee is not justified. The learned High Court dismissed the revision petition through the impugned order, hence this petition for leave to appeal.

2. Mr. Muhammad Azeem Dutt, Advocate, the learned counsel for the petitioner after brief statement of the facts submitted that the impugned orders of both the Courts below are result of misconception of law and failure to apply judicial mind. In the Azad Jammu and Kashmir the Courts Fee Act has not been amended. Any amendment made in the Finance Act has no relevance with the Courts Fee Act. He further argued that if for the sake of argument it is presumed that the

Court fee has been enhanced through Finance Act, 2015 even then it is misconceived as the amendment cannot be applied with retrospective effect. The petitioner has filed the suit on 11.04.2012 i.e., more than three years earlier to the enforcement of Finance Act, 2015, thus, it is legal question of public importance justifying the grant of leave.

3. Conversely, Mr. Muhammad Sajjad, Advocate, the learned counsel for the respondents while forcefully defending the impugned judgment submitted that the petition for leave to appeal has been filed against the law. According to celebrated practice and principle of law, some laws relating to finance and fiscal matters are amended every year through Finance Act. The learned counsel for the petitioner has rightly argued that the suit was filed on 11.04.2012 but it makes no difference because the relevant amendment regarding the enhancement of the Court fee was introduced through Act No. III of 2000 which is enforced in Azad Jammu and Kashmir since 11th July, 2000. No question of law is involved. The petition has been filed just to prolong the litigation, therefore, the same is liable to be dismissed.

4. I have considered the arguments of learned counsel for the parties and gone through the record made available. The proposition involved in this petition is regarding the levy of Court fee on plaint according to the enforced law. The plaint was filed on 11.04.2012, whereas, according to Act No. III of 2000 which is enforced in Jammu and Kashmir from July, 2000, in the Courts Fees Act, 1870, following amendment has been made:

“7. Amendment of Schedule, Act VII of 1870.- In the Court Fees Act, 1870 (Act VII of 1870), Article I of Schedule I shall be substituted as under:-

<p>1. Plaint, written statement pleading a set-of or counter-claim or memorandum of appeal (not otherwise provided for in the Court Fees Act) or of Cross - objection presented to any civil or Revenue Court except those mentioned in Section 3.</p>	<p>Seven and half percent on the amount or value of the subject matter in dispute subject to maximum of fifteen thousand rupees.”</p>
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It is clear that since 11th July, 2000 in the Azad Jammu and Kashmir the enforced rate of Court fee is seven and half percent on the amount or value of the subject matter in dispute subject to maximum of fifteen thousand rupees. Thus, the orders of the Courts below are quite consistent with statutory provisions of

law. Mere error or reference of Finance Act, 2015 is not such material point justifying the grant of leave.

No question of law is involved. Therefore, this petition stands dismissed with no order as to costs.

Mirpur,
.04.2017

CHIEF JUSTICE

Date of Announcement: 18.04.2017