

her grandsons, and is a necessary party to the partition suit. The plaintiffs should be allowed to join her as a defendant now.

I do not wish to say anything as to the extent of her share, as the point is not argued, and as it is not desirable to deal with it in the absence of the grandmother. The determination of the extent of a grandmother's share may present difficulties according to the varying conditions, under which the partition may come to be effected. But, in my opinion, this is a simple case of its kind and need not present any difficulty.

The result, therefore, is that the decree of the lower Court is reversed and the case sent back to the lower Court for disposal according to law, after Gangabai has been joined as a defendant.

All costs to be costs in the suit.

HEATON, J. :—I agree.

Decree reversed.

R. R.

APPELLATE CIVIL.

Before Sir Basil Scott, Kt., Chief Justice, and Mr. Justice Batchelor.

THE DAMODAR MOHOLAL GINNING AND MANUFACTURING COMPANY, LTD. (ORIGINAL OPPONENTS), APPLICANTS, v. NAGINDAS MAGANLAL (ORIGINAL PETITIONER), OPPONENT.*

1915.

January 15.

Costs—Taxation—Application by a person for being registered as a shareholder in a Company—Indian Companies Act (VI of 1882), section 254—High Court Rules, Rule 704—High Court Manual of Circulars, Chapter VIII.

To regulate costs incurred in obtaining an order from the District Court to register the applicant as a share-holder of a Company, recourse must be had to the High Court Manual of Civil Circulars, 1912, Chapter VIII, and not to High Court Rules (Original Side), Rule 704 framed under section 254 of the Indian Companies Act (VI of 1882).

* Application No. 240 of 1914 under the extraordinary jurisdiction.

1915.

DAMODAR
MOHOLAL
GINNING
AND
MANUFACTURING
COMPANY,
LTD.

v
NAGINDAS
MAGANLAL.

APPLICATION under extraordinary jurisdiction (section 115 of the Civil Procedure Code, Act V of 1908) against an order passed by B. C. Kennedy, District Judge of Ahmedabad, in Miscellaneous Application No. 235 of 1913.

One Nagindas Maganlal applied to the District Court of Ahmedabad to obtain an order to register him as a share-holder of the Damodar Moholal Ginning and Manufacturing Company, Limited, at Ahmedabad and to rectify the register accordingly.

The application was allowed with costs.

The applicant drew up a bill of costs on the scale indicated in Rule 704 of the High Court Rules (Original Side). The District Judge allowed the bill on the above principle of taxation, on the following grounds :—

“I am of opinion that the High Court's Rules do authorise the charging of costs by pleaders at the rates prescribed by Rule 704 in respect of all proceedings under the Companies Act, even if such proceedings are taken in the District Court and this seems to be the practice of this Court.”

The Company applied to the High Court.

T. R. Desai, for the applicant :—Rule 704 applies only to proceedings in winding-up matters or matters relating to the reduction of capital or sub-division of shares : see section 254 of Act VI of 1882. Proceedings like the present are governed by Chapter VIII of the Manual of Circulars.

K. N. Koyajee, for the opponent :—Rule 704 is very wide in its terms and must be regarded as having been framed under section 15 of the High Court's Act. “Rules under the Indian Companies Act, 1882,” mean “Rules to be observed in matters under the Indian Companies Act, 1882.”

SCOTT, C. J. :—The opponent, in November 1913, applied by Miscellaneous Application No. 235 of 1913 to the District Judge of Ahmedabad for an order that

he should be registered as a share-holder in the Damodar Moholal Ginning and Manufacturing Company, and his application was allowed with costs. The pleader for the opponent, thereafter, presented a bill of costs prepared as if it were an Attorney's bill on the Original Side of the High Court, and that bill has been referred by the District Judge to the Taxing Master of this Court for taxation, the learned District Judge being of opinion that the High Court's Rules had authorized a charging of costs of pleaders at the rates specified by Rule 704 in respect of all proceedings under the Companies Act. It has been pointed out to us by the pleader for the applicant-Company that the power of the High Court to make rules specially relating to Company-applications is conferred by section 254 of the Indian Companies Act (VI of 1882), and that power is limited to making rules concerning the mode of proceeding to be had for winding up a Company; and for giving effect to the provisions contained as to the reduction of capital and the sub-division of the shares of the Company. If this proceeding does not fall under any of those categories; it could not have been a proceeding regulated by those rules made by the High Court under its powers under the Indian Companies Act. For the purpose of regulating the costs in other proceedings in Company matters, recourse must be had to rules framed by the High Court under its rule-making power under the High Courts Act. Those rules will be found in Chapter VIII of the Manual of Circulars of the Bombay High Court for the guidance of Civil Courts and Officers subordinate to it (edition of 1912). We set aside the order of the District Judge and remand the case to him for disposal on the question of costs. No costs on either side of this application.

Order set aside.

J. G. R.

1915.

DAMODAR
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