

Order-36 Special Case

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1. Power to state case for Courts opinion :-

(1) Parties claiming to be interested in the decision of any question of fact or law may enter into an agreement in writing slating such question in the form of a case for the opinion of the Court, and providing that, upon the finding of the Court with respect to such question,-

(a) a sum of money fixed by the parties or to be determined by the Court shall be paid by one of the partics to the other of them; or

(b) some property, moveable, or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or

(c) one or more of the partics shall do, or refrain from doing, some other particular act specified in the agreement.

(2) Every case stated under this rule shall be divided into consecutively numbered paragraphs, and shall concisely state such facts and specify such documents as may be necessary to enable the Court to decide the question raised thereby.

2. Where value of subject-matter must be stated :-

Where the agreement is for the delivery of any property, or for the doing, or for the refraining from doing, any particular act, the estimated value of the property to be delivered, or to which the act specified has reference, shall be stated in the agreement.

3. Agreement to be filed and registered as suit :-

(1) The agreement if framed in accordance with the rules hereinbefore contained, may be filed [with an application] in the Court which would have jurisdiction to entertain a suit, the amount or value of the subject-matter of which is the same as the amount or value of the subject-matter of the agreement.

(2) [The application], when so filed, shall be numbered and registered as a suit between one or more of the parties claiming to be interested as plaintiff or plaintiffs, and the other or the others of them as defendant or defendants; and notice shall be given to all the parties to agreement, other than the party or parties by whom [the application was presented].

4. Parties to be subject to Courts jurisdiction :-

Where the agreement has been filed, the parties to it shall be subject to the jurisdiction of the Court and shall be bound by the statements contained therein.

5. Hearing and disposal of case :-

(1) The case shall be set down for hearing as a suit instituted in the ordinary manner, and the provisions of this Code shall apply to such suit so far as the same are applicable.

(2) Where the Court is satisfied, after examination of the parties, or after taking such evidence as it thinks fit-

(a) that the agreement was duly executed by them,

(b) that they have a bona fide interest in the question stated therein, and

(c) that the same is fit to be decided,

6. No appeal from a decree passed under rule 5 :-

No appeal shall lie from a decree passed under rule 5.1