

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 1045 of 2015 (O&M)
Date of decision: 20.7.2015

Surinder Singh and others

.. Petitioners

v.

Sukhwinder Singh

.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Munish Jolly, Advocate for the petitioners.

...

Rajesh Bindal J.

Challenge in the present petition is to the order dated 20.12.2014, vide which the application filed by the petitioners for treating the issue regarding court fee to be preliminary, was rejected.

In the case in hand, suit for recovery of ₹ 50,00,000/- as damages or as may be assessed by the court below, was filed by the respondent against the petitioners-defendants. Initially, the petitioners filed application under Order 7 Rule 11 CPC for rejection of plaint on account of non-deposit of requisite court fee.

A perusal of the impugned order shows that the same was disposed of on 18.10.2012 by framing additional issue regarding court fee. The aforesaid order was not challenged by the petitioners. Another application was filed before the court below for re-considering the issue/question regarding court fee, which was dismissed vide order dated 5.9.2014. The same also attained finality, as was not challenged any further. It was thereafter that the application in question was filed for treating the issue of court fee as preliminary, which the court below has declined.

Once in the application filed by the petitioners for rejection of the plaint on account of non-deposit of court fee, the court below had framed additional issue regarding court fee and the petitioners were satisfied with the same and did not challenge the same any further seeking final decision of the issue regarding court fee, in my opinion, the petitioners could not file fresh application before the court below for treating the issue regarding court fee to be preliminary. There is no error in the impugned order.

The petition is, accordingly, dismissed.

(Rajesh Bindal)
Judge

20.7.2015
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