

IN THE HIGH COURT OF PUNJAB AND HARYANA, AT
CHANDIGARH

CR No. 1078 of 2014

Date of Decision: 07.07.2015

Kamal Krishan Devgun

.....Petitioner

Vs.

Dinesh Kumar and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Ranjit Singh, Advocate, for
Mr. Avtar Singh Bhatti, Advocate,
for the petitioner.

Mr. Ajaivir Singh, Advocate,
for respondents No. 1 and 2.

Mr. R.S. Dhaliwal, Advocate,
for respondents No. 3 and 4.

Ms. Kanica Sachdev, Advocate,
for respondent No. 5.

SABINA, J.

Petitioner has filed this petition challenging the orders
dated 09.11.2012 and 28.01.2014.

I have heard learned counsel for the parties and have
gone through the record, available on the file carefully.

Learned counsel for the petitioner has submitted that,
although, petitioner had filed suit for recovery of ₹1,00,00,000/- as
damages but while fixing the Court fee, petitioner had tentatively
fixed the value of the suit for the purposes of Court fee as

₹1,00,000/- Hence, petitioner was not required to affix *ad valorem* Court fee.

In support of his arguments, learned counsel has placed reliance on the decision of this Court in **State of Punjab and others vs. Jagdip Singh Chowhan** 2005 (1) R.C.R. (Civil) 54, wherein it was held as under:-

*The plaintiff-respondent's suit as framed is similar to the suits for damages considered by this Court in Hem Raj v. Harchet Singh and Ors., 1993 Civil Court Cases 48 ([P&H](#)) and [Subhash Chander Goel v. Harvind Sagar](#). In the former case the plaintiff had sued for damages on account of injuries suffered by him and valued his suit for purposes of jurisdiction at Rs. 1.00 lac while for the purpose of court-fee suit was valued at Rs. 500.00. In the later case also the plaintiff had sued for damages and compensation and affixed Rs. 50,00 as court-fee. In both cases tentative valuation of the suits for the purposes of court-fee was accepted. The opinion of this Court as expressed in the above two cases is that where the Court is unable to say what the correct valuation of the relief is, it cannot require the plaintiff to correct the valuation and has been made by him. In such cases, Court had no other alternative than to accept the plaintiff's tentative valuation. In case of compensation, there is no objective standard available and indeed there never can be, which can help to determine the amount to which the plaintiff should value the relief claimed by him. It is the nature of things that valuation put by the plaintiff has to be tentative and cannot be disputed. Similarly, in the later case the view expressed in Hem Raj case (*supra*) was followed and petition's tentative valuation was accepted.”*

Learned counsel for the respondents, on the other hand, has opposed the petition and has submitted that since the petitioner

himself had valued the suit for the purposes of Court fee and jurisdiction as ₹1,00,00,000/-, he was required to affix the Court fee, accordingly.

In support of his arguments, learned counsel has placed reliance on a decision of this Court in **Manjeet Singh vs. Beant Sharma** 2012 (4) PLR 287, wherein it was held as under:-

“A bare perusal of the aforesaid provision reveals that suit for accounts falls in category different from suit for damages or compensation. In the judgment of Hem Raj (supra), suit for damages was held to be akin to suit for accounts and the same judgment was followed in the subsequent judgments of Subhash Chander Goel (supra) and State of Punjab and others (supra). However, under the above provisions of the [Court fee Act](#), suit for damages falls under [Section 7\(i\)](#) whereas suit for accounts falls under [Section 7\(iv\)](#) (f). In case of suit for damages falling under [Section 7\(i\)](#) of the Court fee Act, the amount of Court fee has to be paid according to the amount claimed whereas in suit for accounts falling under [Section 7\(iv\)\(f\)](#), Court fee has to be paid according to the amount at which the suit is valued by the plaintiff and the plaintiff has to state the same. In the instant case, the plaintiff has claimed specific amount of ₹2,00,000/- as compensation/damages. This is a money suit for recovery of ₹2,00,000/- and, therefore, in view of unambiguous and categorical provision of [Section 7\(i\)](#) of the Court fee Act, the plaintiff has to pay ad valorem Court fee on the aforesaid amount. This view finds support from judgment in the case of Ranjit Kaur (supra).

Although in the suit, the plaintiff has used the expression 'un liquidated damages', but in fact the plaintiff has claimed liquidated amount of damages i.e. specific amount of ₹2,00,000/- and it appears to have

been done to evade payment of ad valorem Court fee on the suit amount. For the reason aforesaid, I find no infirmity, much less illegality, perversity or jurisdictional error in impugned order of the trial Court. The plaintiff-petitioner has to pay ad valorem Court fee on the suit amount claimed by him and has been rightly directed to do so by the trial Court. The impugned order, therefore, does not warrant interference by this Court in exercise of power of Superintendence under [Article 227](#) of the Constitution of India because there is no ground to interfere with the impugned order. Accordingly the revision petition is dismissed.

Learned counsel has next placed reliance on a decision of this Court in **Dr. Bimal Anjuman vs. Aasra Foundation (Registered)**, Muktsar 2014 (1) PLR 624, wherein it was held as under:-

“Counsel for the parties reiterated their versions as noticed hereinbefore. I have carefully considered the matter. The plaintiff in the suit has claimed specific amount of ₹2 lacs as damages, besides amount equivalent to three months salary of the defendant-petitioner and also the remaining amount of security equivalent to one month salary after adjusting ₹12,600/-. Since the plaintiff has claimed specific amounts under different heads, the plaintiff is required to pay ad valorem court fee on the said amounts. Impugned order of the trial court is patently illegal and suffers from jurisdictional error because court fee is to be paid on the relief claimed in the plaint and not on the relief that may be granted by the court after adjudication of the suit. In the instant case, the plaintiff has claimed recovery of ₹2 lacs as damages and three months salary in lieu of resignation notice period and one month salary towards security after deducting ₹12,600/- already deducted from the salary

of the plaintiff. Consequently, the plaintiff has to pay ad valorem court fee on all the said amount.

In the present case, petitioner has filed suit for recovery of ₹1,00,00,000/- against the defendants as damages.

Para 17 of the plaint reads as under:-

“That the value of the suit for purpose of Court fee and jurisdiction is ₹One crore only which a Court fee of ₹1,00,136/- is payable. However, plaintiff tentatively fixed the value of the suit for the purpose of Court fee and jurisdiction as ₹1,00,000/- upon which a Court fee of ₹3,325/- payable and has been paid on the plaint. However, the plaintiff shall pay the Court fee upon the amount of damages which may be found due against the defendants and this honourable Court ultimately at the time of final decision. ”

Thus, in the present case, petitioner has himself valued the suit for the purposes of Court fee and jurisdiction as ₹1,00,00,000/-. Thereafter, petitioner further stated that tentatively he had fixed Court fee by taking the value of the suit for the purposes of Court fee and jurisdiction as ₹1,00,000/-. Since the petitioner had himself valued the suit for the purposes of Court fee as ₹1,00,00,000/-, he was required to affix the Court fee, accordingly, and could not tentatively reduce the value of the suit for the purposes of Court fee with a view to affix lessor Court fee.

I have gone through the judgment relied upon by learned counsel for the petitioner but the same fails to advance the case of the petitioner as it is based on different facts. In the said case, the plaintiff had tentatively valued the suit for the purposes of damages

as ₹50,000/- and affixed the Court fee accordingly.

In the facts and circumstances of the present case, the learned trial Court rightly directed the petitioner to affix the requisite Court fee.

Hence, no ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

July 07, 2015
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