

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Revision No.1173 of 2014 (O&M)

Date of decision: 10.07.2015

Sadhu Singh Karwal

.... Petitioner

versus

Neelam Karwal and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Arshdeep Bhullar, Advocate,
for the petitioner.

Mr. Sumit Batra, Advocate,
for the respondents.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The revision is on a simple issue of whether a plaintiff who alleges that a licence was cancelled in a suit for mandatory injunction could value the suit as for mandatory injunction and pay the fixed court fee instead of value as a suit for recovery of possession and pay the ad valorem court fee. The trial court directed the ad valorem court fee to be paid.

2. Learned counsel point out to me two decisions of this court directly on the issue in **Harish Chand Versus Som Nath and**

others-2013(1) RCR (Civil) 367 and **Jagdish Versus Brij Lal-2007-1 Vol.CXLV PLR 398**. The counsel says that both these decisions are squarely on the point that where a defendant has no interest in the subject matter to hold the property as licensee and if the licence is cancelled, the relief of mandatory injunction could be maintained on payment of fixed court fee.

3. Learned counsel for the respondents brings to my notice a judgment of a Full Bench in **Niranjan Kaur Versus Nirbigan Kaur-1982 PLR 127** which held while deciding on the nature of court fee that would require to be paid on the plaintiff seeking for cancellation of document, the real content of the relief in suit must be seen. The counsel would contend that the real purport of suit is recovery of possession of immovable property and hence, the relief must be valued on its market price and the court fee paid ad valorem. The counsel would also refer me to other judgments of this court (in **Ram Chander Versus Rattan Lal-2002(2) RCR (Civil) 157** and **Surinder Pal Versus M/s Ranbow Promoters Private Limited-2011(2) Civil Court Cases 223**) that set out a similar wide expression that the content of a suit alone must be examined for assessing the proper court fee payable. The counsel would also refer to a decisions of Delhi High Court which I do not propose to cite, for, when there is a direct ruling of this court, I do not feel constrained to examine the decision of any other High Court.

4. I have no doubt in my mind that the court fee shall be assessed only on the true content of the plaint and the plaintiff by clever pleading cannot defeat the express provisions of the Court Fees Act to lessen the liability to tender appropriate revenue to the State through court fees which are payable. In the three decisions of this court, namely, the Full Bench and the other two decisions that referred to the generic expressions that the content of the suit would alone be relevant for the issue to court fee, the Courts did not confront a specific issue of what is being brought now, namely, the frame of a suit for mandatory injunction on a revocation of licence. That was precisely the fact that was brought in the two judgments which I have quoted, on which the counsel for the petitioner relied on.

5. I do not find any conflict amongst the judgments of our court and I do not therefore propose to re-examine the issue of the proper court fee payable and let the matter reside in the way that has been held in the said two decisions, namely, **Harish Chand** (supra) **Jagdish** (supra).

6. The order passed already is set aside and the court fee as paid is upheld. The revision petition is allowed.

(K.KANNAN)
JUDGE

10.07.2015
sanjeev