

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

**Civil Revision No.1394 of 2014
Date of Decision: August 10, 2015**

Amarpal Kaur

.... Petitioner

vs.

Harbant Rai

.... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. S.K. Jain, Advocate for the petitioner.

Mr. Shubhashish Kukreti, Advocate for the respondent.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

Impugned in the present revision petition is the order dated 20.01.2014 (Annexure P-3) passed by learned Civil Judge (Jr. Divn.), Dabwali, whereby the plaintiff was ordered to make good the deficiency of court fee in terms of Section 7 (v) (c) of the Court-fees Act, 1870. Also impugned in the present revision petition is the order dated 03.02.2014 (Annexure P-4) granting one month's more time to the plaintiff for affixing the requisite court fee as per Section 7(v) (c) of the Court-fees Act, 1870.

I have heard learned counsel for the parties and have also carefully gone through the case file.

It comes out that the plaintiff has filed suit for declaration to the effect that he is only in possession of certain land in the

revenue estate of village Khattrawan, Sub Tehsil Kalanwali, District Sirsa. The judgment passed in a civil suit was also challenged.

The question that has arisen before this Court is that as to under which Section, the court fee is to be paid?

Section 7 (V) of the Act reads as under:

“ for possession of land, houses and gardens; - In suits for the possession of land, houses and gardens – according to the value of the subject – matter; and such value shall be deemed to be -

Where the subject-matter is land, and -

(a) Where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government,

or forms part of such an estate and is recorded in the Collector's register as separately assessed with such revenue ;

*and such revenue is permanently settled-
ten times the revenue so payable:*

(b) Where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government, or forms part of such estate and is recorded as aforesaid,

*and such revenue is settled, but not permanently -
five times the revenue so payable;*

(c) Where the land pays no such revenue, or has been partially exempted from such payment, or is charged with any fixed payment in lieu of such revenue, and net profits have arisen from the land during the year next before the date of presenting the plaint -

fifteen times such net profits ;

but where no such net profits have arisen therefrom – the

amount at which the Court shall estimate the land with reference to the value of similar land in the neighbourhood; ---”

It comes out that by the amendment in the Court-fees Act, 1870, second Amendment Act, 1974 is effective from 31.01.1974. The said Act was amended. Clause 'a' and 'b' of Section 7(V) were amended, which has been reproduced as under:

“(a) where the subject matter is land other than land situated within municipal limits of Abadi Deh whether under cultivation or not according to the market value thereof which shall be deemed to be :-

(i) in the case of land which is irrigated by perennial canal, sixty rupees per acre;

(ii) in the case of land which is irrigated by non perennial canal or by well, fifty rupees per acre; and

(iii) in the case of land which is Barani, Sailab, Bud, Thur, Sem, Banjar or of like nature, thirty rupees per acre; and

(b) where the subject matter is house, garden or land situated within municipal limits or Abadi Deh whether under cultivation or not, according to its market value.”

Now the question would arise that whether Clause 'a' or Clause 'c' of amended act is attracted in the present case.

The contention of learned counsel for the respondent that this case is covered under clause 'c' does not hold any ground, as the basis of fixation of court fee in this case is whether in this case land is cultivated by a canal or not?

A perusal of the Jamabandi shows that the nature of the land is *Nehri*, which means that it is irrigated land. Therefore, it is

covered by Section 7 clause (v) sub clause a(i). The question whether it is paying land revenue to the Government or not does not arise.

It being so, it is held that the land in the present case is covered under section 7(v) (a) (i) and the court fee is payable @ ₹60/- per acre.

Learned counsel for the petitioner has informed to this Court that the court fee @ ₹60/- per acre has already been paid by him.

The present revision petition is accordingly allowed.

August 10, 2015
sarita

(KULDIP SINGH)
JUDGE