

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Civil Revision No. 2126 of 2012 (O&M)

DATE OF DECISION : August 19, 2015

Baldev Singh

..... PETITIONER(S)

VERSUS

Shiv Singh & ors.

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. G.S. Jaswal, Advocate, for the petitioner.
Sarvshri A.S. Cheema and Rishav Jain, Advocates, for
respondent No.1.

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1. Whether Reporters of local newspapers may be
allowed to see the judgment? YES/NO

2. To be referred to the Reporter or not? YES/NO

3. Whether the judgment should be reported in the
digest? YES/NO

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ARUN PALLI, J. (Oral)

Vide order being assailed, dated 14.03.2012

(Annexure P-4), rendered by Civil Judge (Junior Division),

Mukerian, petitioner-plaintiff was directed to affix ad valorem

court fee, as he indeed had assailed the sale deeds in favour of defendants No.4 and 5.

In a suit filed by the petitioner-plaintiff, defendant No.1 moved an application dated 18.02.2012 and prayed for rejection of the plaint. It was maintained that petitioner-plaintiff had challenged the sale deeds executed by defendant No.1 in favour of defendants No.4 and 5, certified copies of which are Exhibits P-1 and P-2. Since, plaintiff had not affixed the ad valorem court fee, on the sale consideration of these sale deeds, he was either required to pay the ad valorem court fee or his plaint was liable to be rejected.

On a consideration of the matter in issue, learned trial Court in reference to the issue concluded, as thus:-

“Moreover the plaintiff not challenged these sale deeds in the head note of the plaint and cleverly wants to get cancelled these sale deeds without filing the advolerm court fee. Therefore, the plaintiff wants to challenge these sale deeds executed by the defendant No.1 then the plaintiff has to file advolerm court fee on the value mentioned in these sale deeds. Hence, both these applications accordingly disposed of with the direction that the plaintiff cleverly wants to challenge these sale deeds in the present suit, therefore, he has to file advolerm court fee on 23.3.2012.”

During course of hearing of this petition, a consensus emerged between the learned counsel for the parties that since an issue as regards affixation of court fee has already been framed by the trial court i.e. **“Whether the suit is not properly valued for the purpose of court fee and jurisdiction?”**, and the

parties have already led their respective evidence, let the impugned order dated 14.03.2012 (Annexure P-4), be set aside and the issue qua affixation of appropriate court fee be determined by the trial court, in the wake of the evidence led by the parties.

That being so, the order dated 14.03.2012 (Annexure P-4) is set aside. However, the issue as regards affixation of appropriate court fee, in accordance with law, shall be determined by the trial court, in the light of the evidence led, at the time of final decision in the civil suit.

The Civil Revision is disposed in above terms.

Needless to assert, this order shall not constitute any expression of opinion as regards merits of the claim of either party.

AUGUST 19, 2015
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(ARUN PALLI)
JUDGE