

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR-2737-2014

Date of decision: 22.09.2015

Jagdish Singh

..... Petitioner

Versus

Dharam Pal Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

PRESENT: Mr. Robin Dutt, Advocate for the petitioner.

Mr. Samir Rathaur, Advocate for respondent No. 1.

AMIT RAWAL, J. (ORAL)

Challenge in the present petition is to the order dated 20.03.2014, whereby the petitioner-plaintiff has been called upon to pay the *ad valorem* Court fee in a suit seeking declaration for setting aside of the judgment and decree dated 19.12.1989, passed in Civil Suit No. 379 dated 24.10.1989 and as well as the consequential relief.

Mr. Robin Dutt, learned counsel appearing for the petitioner-plaintiff submits, that the rate as noticed by the trial Court is not the collector rate, therefore, the petitioner-plaintiff has erroneously not been called upon to pay the *ad valorem* Court fee vis-a-vis, the suit property sought to be possessed after setting aside the decree, aforementioned.

Mr. Samir Rathaur, learned counsel appearing for respondent No. 1-defendant submits that since the petitioner-plaintiff had sought the relief for possession, therefore, *ad valorem* Court fee as per collector rate

is required to be paid and rightly so, the trial Court has passed the order directing him to do so.

I have heard learned counsel for the parties and appraised the paper book.

The factum of location of property in the vicinity as alleged by learned counsel for respondent-defendant is not disputed. Even no documentary evidence to controvert the collector rate has been placed on record on rebuttal. The trial Court on the basis, of per pleadings decided the application calling upon the petitioner-plaintiff to pay *ad valorem* Court fee at the collector rate by assessing the same @ ₹ 6500/- per sq. yard as the property in question is measuring 1584 sq. feet. Since, the learned counsel appearing for petitioner-plaintiff has not been able to controvert the collector rate, in my view, the impugned order does not suffers from any illegality or perversity, as relief of possession of the property, by setting aside the judgment and decree dated 19.12.1989, has been sought. The impugned order cannot be said to have been passed without jurisdiction. The instant revision petition is devoid of merits.

Accordingly, the same is dismissed

September 22, 2015
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(AMIT RAWAL)
JUDGE