

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.3032 of 2015 (O&M)

Date of Decision.25.05.2015

Rajender

.....Petitioner

Versus

Mahender Singh and others

.....Respondents

Present: Mr. Ajit Sihag, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers 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?

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K. KANNAN J. (ORAL)

C.M. No.11003-CII of 2015

Application is allowed.

Documents are taken on record.

C.M. No.11004-CII of 2015

Application is allowed.

The main case is taken up hearing today itself.

C.R. No.3032 of 2015

1. I do not find any merit for an intervention, for, the case would require to be considered as one for possession. I have seen through the copy of the plaint, the opening words of the plaint itself is that the property should be got delivered in favour of the plaintiff. If there is a prayer for delivery, the court fee ought to be paid on ad valorem basis on valuation of the property in the manner in which the Court Fee Act provides.

2. To a pointed question as to how in the face of a prayer for

recovery of possession, the plaintiff could escape the liability to pay ad valorem court fee, the counsel says that he was only interested in praying that the decree obtained in the year 1991 is not valid and binding and if he gets a decree and Court orders delivery at that time he will pay the court fee. The Court cannot wait for collection of the court fee till the decree is passed. The court fee ought to be paid on the manner in which the relief is claimed and the details that the plaintiff discloses. I do not find that there is any error in the order for an intervention. It is irrelevant that at an early occasion on the objections taken by respondent Nos.4 and 5, the Court was not convinced that the Court fee had not been paid properly. The objections are now taken at the instance of respondents No.1 to 3 on the same grounds and the Court has come to a different conclusion and this, according to the counsel, is not permissible. I will find that the issue of court fee brought at the instance of the other set of defendants will be fettered by the principle of res judicata, for, assessment of proper court fee is not indeed a matter between the parties to the litigation unless there is also an issue of territorial jurisdiction. Since the court has unlimited pecuniary jurisdiction, the court fee issue will have to be decided by the Court as custodian of State revenue and I will not find that the decision rendered already on the basis of objections taken by respondent Nos.4 and 5 could make any difference to the benefit of the plaintiff.

3. I find nothing for intervention and dismiss the revision petition.

(K. KANNAN)
JUDGE

May 25, 2015

Pankaj*