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

CR No.3140 of 2015

Date of decision: May 25, 2015

Yashpal

.....Petitioner

Versus

Kiraninder Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Rakesh Gupta, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 23.03.2015, whereby application moved by the the defendants under Order 7 Rule 11 of Code of Civil Procedure, 1908, was allowed.

Learned counsel for the petitioner has submitted that in the present case, petitioner is seeking possession of the "land". Learned counsel has further submitted that the land in question was assessed to land revenue and the same had been exempted. Therefore, the petitioner was not required to affix *ad valorem* court fee. In this regard, learned counsel has placed reliance on Section 7(v)(c) of the Court Fees Act, 1870 ('Act' for short), which reads as under:

"7(v)(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;”

In support of his arguments, learned counsel for the petitioner has also placed reliance on **Purshotam Lal v. Piyare Lal and another**, A.I.R. (35) 1948 East Punjab 9, wherein, it was held as under:

“The term “land” is not defined anywhere in the Court fees Act. It should, therefore, be interpreted in the ordinary sense, and should cover all kinds of land, regard-less of the use to which it is put or may be likely to be put. It may also be mentioned that any other interpretation would land us in a difficult position, because if it is assessed to land revenue and the other conditions of cls. (a), (b) or (c) are satisfied, there will be no other clause applicable to it under which court fee could be charged on the market value.”

In the present case, petitioner has filed suit for possession. A perusal of the plaint itself shows that construction had been raised over the suit property and the official respondents were running their offices in the said building. Learned counsel for the petitioner has submitted that now the Government offices have been shifted from the suit property. This fact shows that the land in question was being used for commercial purposes. In these circumstances,

the learned trial Court rightly held that the petitioner-plaintiffs are liable to pay *ad valorem* court fee as the suit property is situated in urban area. Thus, the case of the petitioner is not covered under Section 7(v)(c) of the Act and the petitioner is liable to affix *ad valorem* court fee.

I have gone through the judgment relied upon by the learned counsel for the petitioner, but the same fails to advance the case of the petitioner.

No ground for interference by this Court, is made out.

Dismissed.

**(SABINA)
JUDGE**

May 25, 2015
m.singh