

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

**CR No. 3235 of 2013 (O&M)
Date of decision: 19.11.2015**

Jairath

... Petitioner

versus

Vijay Singh and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Shailender Kashyap, Advocate for the petitioner.

Mr. Sanjiv Gupta, Advocate for the respondents.

K.Kannan, J.

The relief of declaration that decree obtained was not valid and that the revenue entries carried out in the name of the defendants were not valid. The suit had been valued notionally by the plaintiff and the Court fee had been paid thereon. The objection had been taken that a prayer for setting aside invoked a requirement of assessing the actual value of the property covered under the decree and the market value of the property ought to have been assessed and ad valorem court fee be paid thereon. This objection was accepted and the plaintiff was directed to value the property afresh and pay the appropriate court fee.

The counsel for the petitioner-plaintiff argues that he is not asking for the relief of possession and if it is only for a declaratory decree and for the consequential relief of injunction, the requirement under Section 7(iv) will be applicable for the relief of injunction, if the plaintiff sets the amount at which he valued for the relief sought. This valuation could be made notionally and there is no compulsion to value it on the basis of the market value of the properties, the contingency that would arise if a relief of possession were to be sought which is governed by the Clause (v) falling under difference situations specified under (a) to (d).

I have gone through the plaint and so long as there was no prayer for possession, the plaintiff was entitled to a notional valuation and pay appropriate fee thereon. There was no error in the plaint as valued and the impugned order is set aside. The Court fee paid already shall be taken as correct.

It is learnt that the entire evidence is closed and the case awaits decision only for the conclusion of the proceedings before this Court. The court shall conclude the arguments if the evidence is complete and proceed to deliver the judgment in accordance with law as expeditiously as possible.

The civil revision petition is disposed of with the above observations.

(K.KANNAN)
JUDGE

19.11.2015
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