

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No.3289 of 2012
Date of decision:19.01.2015

Babu Ram Arya

....Petitioner

Versus

Jai Bhagwan & others

.....Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr.Sandeep Lather, Advocate, for
Mr.Ravinder Malik, Advocate, for the petitioner.

Mr.Ashok Bhardwaj, Advocate, for respondent No.1.

G.S.Sandhawalia J.(Oral)

Challenge in the present revision petition, filed by the petitioner-defendant No.3, is to the order dated 20.04.2012 (Annexure P6), wherein the application for rejection of the plaint on account of non-fixation of the requisite *ad valorem* Court fees, has been dismissed. The reasoning which prevailed with the Trial Court is that the amount of compensation has not been quantified and an objective standard, as per the satisfaction of the Court, has to be recorded which could help in determining the value claimed by him and accordingly, the application has been dismissed.

A perusal of the paperbook would go on to show that the suit was filed for compensation on account of malicious prosecution of the plaintiff in criminal case bearing FIR No.160 dated 07.07.2002, lodged under Sections 427, 430, 431, 379 IPC, at Police Station Farakpur. Fixed Court fees of ₹25/- was put on the plaint and it was submitted that the amount of compensation could not be ascertained at this stage and will be determined by the Court, after trial.

Written statement was filed by defendants No.2 & 3 and thereafter, the application was filed under Order 7 Rule 11 CPC, for directing the plaintiffs to affix the *ad valorem* Court fees of an amount of ₹5 lacs. The application was, accordingly, contested on the ground that the defendants No.2 & 3 had no right regarding the quantum of Court fees as it was a matter between the plaintiff and the State and secondly, the amount of compensation had not been claimed.

This Court, in **Subhash Chander Goel Vs. Harvind Sagar AIR 2003 P&H 248**, in similar circumstances, dealing with a case pertaining to claim of damages, has held that valuation given by the plaintiff is to be accepted tentatively and there is no objective standard which could help determine the amount for which the plaintiff can determine the relief claimed by him.

Even otherwise, the question of Court fees is between the plaintiff and the State and it is not for the defendant to stall the trial by taking recourse to the objection of less Court fee affixed. In **Sri Ratnavaramaraja Vs. Smt. Vimla AIR 1961 SC 1299**, the Apex Court has held that the defendant had no right to come up in revision as it would amount to stalling the progress in the Civil Suit. This Court in two Full Benches' decision in **Krishan Kumar Grover Vs. Parameshri Devi (1966) 68 PLR 54** and **Arjan Motors Vs. Girdhara Singh & others 1978 AIR Punjab 25** has also held to the same effect.

In such circumstances, this Court is of the opinion that the present revision petition is bereft of any merit and the same is, accordingly, dismissed.

19.01.2015
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(G.S.SANDHAWALIA)
JUDGE