

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Civil Revision No.5124 of 2015

Date of decision: 19.12.2015

Dharamdutt @ Harpal

.....Petitioner

versus

Smt.Geeta Devi

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Pritam Saini, Advocate for the petitioner
Mr.Kulbushan Sharma, Advocate for the respondent

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J. (Oral)

Impugned in the present revision is the order dated 3.7.2015 (Annexure P3), passed by the learned Civil Judge, Junior Division, Rewari, vide which in an application filed by the defendant under Order 7 Rule 11 CPC, the plaintiff was directed to pay the ad valorem court fee on the market value of the suit property.

I have heard learned counsel for the parties and have also carefully gone through the file.

Plaintiff in this case has filed a suit for declaration and permanent injunction challenging the release deed dated 20.1.2014 executed by him in favour of his daughter Geet Devi defendant on the ground of fraud. No relief of possession has been sought. During the pendency of the said suit, an application was filed for directing the

plaintiff to pay ad valorem court fee on the market value of the land which was allowed. The lower Court has relied upon Section 7(4)(c) of the Court Fee Act 1870 (for short, 'the act') to hold that the ad valorem court fee on the market value of the said property is to be paid. It is not denying fact that an amendment has been made in Section 7 of the Act by the Haryana State. Section 7(4) (c) of the Act pertains to suit for declaration and consequential relief. It shows that the court fee is payable at the amount at which relief sought is valued in the plaint or memorandum of appeal. However, the proviso to the said section states that if the case is falling under sub clause (c), (which is applicable in the present case), the valuation shall not be less than the value of the property calculated in the manner provided for by clause (v) for this section. Clause (v) is reproduced as under-

“(v) for possession of lands, houses and gardens- In suits for the possession of land, houses and gardens, according to the value of the subject matter; and such value shall be deemed to be,-

(a) where the subject matter is land other than land situated within municipal limits or Abadi Deh whether under cultivation or not according to the market value thereof which shall be deemed to be,-

i) in the case of land which is irrigated by perennial canal, sixty rupees per acre;

ii) in the case of land which is irrigated by non-perennial canal or by well, fifty rupees per acre; and

iii) in the case of land which is Barani, Sailab, Bud, Thur,

*Sem, Banjar or of like nature, thirty rupees per acre;
and*

(b) Where the subject matter is house, garden, or land situated within municipal limits or Abadi Deh whether under cultivation or not, according to its market value.”

Therefore, it is apparent that the court fee in case of land irrigated by perennial canal is Rs.60 per acre and in case of land irrigated by non-perennial canal or by well is Rs.50/- per acre. Therefore, a combined reading of clause 7(4) (c) and (v) shows that the valuation has to be valued as set out in the plaint subject to the condition that it cannot be less than value mentioned in clause (v).

In the present case, it is a release deed by father in favour of the daughter which is without consideration. Therefore, the value given in the plaint is to be taken as the value for the purpose of Court Fee Act subject to the condition that it cannot be less than Rs.60/- or Rs.50/- per acre, as stated above.

As such, the lower Court erred in ordering the payment of Court fee as per market value of the property. The impugned order is accordingly set aside and the court fee is ordered to be paid as stated above. The lower Court shall calculate the deficiency, if any and grant time to the plaintiff to make up the deficiency.

The revision stands allowed accordingly.

19.12.2015
gk

(Kuldip Singh)
Judge