

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

C.R No. 5528 of 2015

Date of decision : 28.08.2015

Shakti Dutt through LRs and others

..Petitioners

versus

Lachhman Dass Shastri

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Aman Vashisht, Advocate
for the petitioners

RITU BAHRI , J. (Oral)

This revision petition is against order dated 30.04.2015 (P-4) whereby the learned Court has directed the petitioner to affix the ad valorem Court fee on the plaint on the market value/Collector rate of suit land measuring 427 sq. yards.

Plaintiff/petitioner filed a suit for possession by directing the defendant/respondent to hand over the actual physical possession of the suit land. Thereafter, an application dated 16.09.2014 under Order 7 Rule 11 CPC for rejection of the plaint for want of requisite Court fee was filed by the defendant and the petitioner filed a reply to the said application.

Learned counsel for the petitioner has referred to a judgment passed by this Court in a case of ***Raj Kumar Singh and others v. Amar Singh and others, 2010 5 RCR (Civil) 39 (1)*** to contend that in similar circumstances, an application made under Order 7 Rule 12(b) CPC was made after a gap of 10 years of framing of issues, was dismissed by the Court below and was upheld by this Court.

This judgment is not applicable to the facts of the present case, as in this case, the issues had been framed on 30.10.2012 and the present application was filed on 16.10.2014. Reference can be made to Order 7 Rule 12 of CPC which reads as under:-

“11. Rejection of plaint.-The plaint shall be rejected in the following cases:

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so;
- (c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamp paper within a time to be fixed by the Court, fails to do so;
- (d) where the suit appears from the statement in the plaint to be barred by any law;
- (e) where it is not filed in duplicate;

(f) where the plaintiff fails comply with the provision of Rule 9.

Provided that the time fixed by the court for the correction of the valuation or supplying of the requisite stamp papers shall not be extended unless the court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp papers, as the case may be within the time fixed by the court and that refusal to extend such time would cause grave injustice to the plaintiff.”

As per Order 7 Rule 11 (c) CPC, the Court can give time where the relief claimed is properly valued.

No ground is made out to set aside impugned order dated 29.09.2011.

The petition stands dismissed.

(RITU BAHRI)
JUDGE

28.08.2015
G Arora