

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

Civil Revision No.7244 of 2011 (O&M)
Date of decision:29.05.2015

Puneeta Sethi

... Petitioner

versus

Ritu Sethi and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Rajesh Garg, Senior Advocate,
with Mr. Rakesh Dhiman, Advocate,
for the petitioner.

Mr. Sanjeev Trikha, Advocate,
for respondent No.1.

1. Whether reporters of local papers may be allowed to see the judgment ? **Yes.**
2. To be referred to the reporters or not ? **Yes.**
3. Whether the judgment should be reported in the digest ? **Yes.**

K.Kannan, J. (Oral)

1. The petitioner is aggrieved about the fact that the court has merely allowed the plaintiff's valuation to be dependent on the circle rate relating to the property which is the subject matter. The contention of the learned senior counsel for the petitioner/defendant who was objecting to the valuation is that the trial Court was in error in relegating the matter for determination of proper court fee till a later time which is against the mandate of Sections 9 and 10 of the Court Fees Act. The said provisions relate to the procedure that may

be adopted for determination of valuation of the property by appointing any person to make an inspection and report on the valuation to the property. The counsel would argue that the circle rate is meant for the purpose of assessment of stamp duty and registration and will not have any bearing to the determination of valuation for purpose of court fee.

2. In my view, the intervention sought at the instance of the defendant is not proper in a revision petition. In the first place, an issue regarding court fee is not a dispute between the plaintiff and the defendant. It is a matter between the suitor and the court, for, the court is the custodian of the State revenue by collection of appropriate court fees and it is bound to ensure that the State revenue is not lost by payment of inadequate court fee. The Supreme Court in **Sri Rathnavarmaraja Versus Smt. Vimla-AIR 1961 SC 1299** held as follows:-

“Whether proper court-fee is paid on a plaint is primarily a question between the plaintiff and the State. The jurisdiction in revision exercised by the High Court under Section 115 of the Code of Civil Procedure is strictly conditioned by Clauses (a) to (c) thereof. The defendant who may believe and even honestly, that proper court-fee has not been paid by the plaintiff has still no right to move the superior courts by appeal or in revision against the order adjudging payment of court-fee payable on the plaint.”

The decision was cited in **Madanlal Versus Lajwanti Devi-1972 AIR (Punjab) 146** of this court and I hold the above proposition appropriate to be applied in all cases. There are two judgments of Kerala High Court in **Mohammed Kani Rowther Versus Hassan Rowther Bulghese Beevi and another-AIR 1972 (Kerala) 56** and **Narayani Ammal Versus Sanjeev-AIR 2001 (Kerala) 305** which have also reiterated the same position.

3. The learned counsel for the petitioner refer to **Munshi Versus Giani-1968 PLR 530** and Lahore High Court in **Sis Ram Versus Sohan Lal and others-AIR 1938 Lahore 311** which held that if objection regarding court fee has taken, the same be decided immediately. I do not think these decisions have any bearing to the case. We are not confronted with a situation where Judge did not consider the issue of court fee at all. On the other hand, he took circle as a basis and left the issue of redetermination of any other value at a later stage. I do not find the procedure to be wrong.

4. The situation could be different in circumstances where the valuation has an immediate bearing to the pecuniary jurisdiction of a civil court. In the State of Haryana, the jurisdiction of civil courts is un-limited and it makes no difference for the exercise of jurisdiction by either a Civil Judge of a Junior Division or Senior Division.

5. After all, a circle rate cannot be taken to be arbitrary. I cannot accept this argument that it will be irrelevant for the purpose of court fees. It is the easiest method of securing the details for a person who approaches the court and pays court fee. Fanciful valuation suggested by defendant can hardly afford the basis for a court to act on. The prices which are invariably in a state of flux cannot leave the court gasping for time to determine valuation of the properties in every case, when it is specified that there is a fair valuation adopted by a plaintiff by making reference to the circle rates in relation to the property. The trial Court, in my view, has been very cautious that it did not close the issue and allowed the valuation to stand and has left the matter for scope for collection of additional court fee at appropriate time if better details are obtained or when it is redetermined later. I will qualify these expressions only to the effect that in the event of decree in favour of the plaintiff, the decree will not be drawn up till the appropriate valuation is made in the light of Sections 9 and 10 for determination of valuation of property on date of suit. For that purpose, it may rely on even registered sale deeds in relation to the property in the vicinity which can provide the basis, even apart from personal inspection of the property and for adopting valuation which are acceptable by judicial standards.

6. The order passed is confirmed but with the minor modification which is made above.

7. Counsel says that this issue of court fee may be considered as preliminary issue. I reject this contention for the reasons set forth above.

(K.KANNAN)
JUDGE

29.05.2015
sanjeev