

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.7168 of 2015

Date of decision: 29.10.2015

Charan Singh

... Petitioner

Versus

Shinder Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Gulzar Mohd., Advocate for the petitioner.

1. Whether reporters of local papers 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?

ARUN PALLI J. (Oral)

Vide order being assailed, dated 08.09.2015, rendered by Civil Judge (Jr. Divn.), Khanna, application moved by the petitioner-defendant No.5, under Order 7 Rule 11 of the Code of Civil Procedure, for rejection of the plaint, has since been dismissed. The conclusion recorded by the trial court in support of its order reads as thus:

“6. After hearing the arguments of the learned Counsels for both the parties, considering the fact and circumstances of the instant case and averments made in the plaint, it is apparent that the plaintiff has come up with the case seeking the relief of recovery of damages as may be assessed by the court after taking the evidence for loss of

reputation, unwanted harassment, loss suffered by the plaintiff having been caused by the defendants by lodging FIR against him. Plaintiff has paid the tentative court fee of Rs. 100/- and undertake to pay the remaining court fee as and when directed by the court. In the considered view of this Court though the court fee is payable on the claim of damages but in case where damages are required to be calculated, a fixed court fee is to be paid and balance court fee is payable only on the quantum when the same is determined by the court. Reliance placed on *Hem Raj Vs Harchet Singh and others 1993 CCC 48 (P&H)*, wherein it was held by Hon'ble Punjab and Haryana High Court that the court has no other alternative to but to accept the plaintiff's tentative court fee till the matter is finally decided by the court."

Ex facie, in a suit filed by the plaintiff, he had prayed for recovery of damages as shall be determined/ assessed by the court in the wake of the evidence led by the parties. Needless to assert, relief the plaintiff shall be held entitled to, shall always be subject to the payment of court fee. But, at this stage, in the absence of a final assessment, the plaint could not be rejected under Order 7 Rule 11 of the Code of Civil Procedure.

That being so, no interference is warranted in exercise of revisional jurisdiction, under Article 227 of the

Constitution of India. Petition being devoid of merit is accordingly dismissed.

October 29, 2015
Rajan

(Arun Palli)
Judge