

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

CR No.7707 of 2015

Date of Decision: November 18, 2015

Manjit Kaur

.... Petitioner

vs.

Sushil and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Vikram Anand, Advocate for the petitioner.

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 petition is the order dated 17.09.2015 (Annexure P-4) passed by learned Civil Judge (Jr. Divn.), Kapurthala, vide which the application of the petitioner-defendant filed under Order VII, Rule 10 and 11 CPC for rejection of plaint for fixation of advalorem court fee, was dismissed.

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

The lower court has taken the view that the relief of possession is claimed as an alternative relief granted. It is further held that only when the alternative relief is granted, the court will decide whether the court fee is required to be paid or not.

Keeping in view the averments made in the plaint and the view taken by the lower court, it is a question of fact whether the

advalorem court fee is required to be paid or not, is to be determined after the trial. The court fee has been paid on the preliminary relief.

It being so, there are no merits in the present revision petition. Accordingly, the present revision petition stands dismissed.

However, the present petitioner can take the objections regarding the court fee in the written statement and in such eventuality, the lower court shall frame specific issue in this regard and decide the same with the main suit. If it is found that the advalorem court fee is payable, the lower court can direct the plaintiff to pay the same.

November 18, 2015
sarita

(KULDIP SINGH)
JUDGE