

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Civil Revision No.7591 of 2014

Date of decision: 13.10.2015

Mohammad Habib

.....Petitioner

versus

Mohammad Din and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Anil Kumar Garg, Advocate for the petitioner
Mr.Sunny K. Singla, Advocate for respondent Nos.1 and 2

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 6.9.2014 (Annexure P4), passed by learned Civil Judge, Junior Division, Malerkotla, vide which, the application filed by defendants under Order 7 Rule 11 CPC was allowed and the plaintiff was directed to affix the Court fee on the market value of the house in dispute.

Suffice it to say that the plaintiff has filed a suit for possession of the house and also for recovery of mesne profit. The plaintiff claims that the house was given to him by way of oral gift by defendant No.1. The gift is denied. Plaintiff further claims that the defendants were licencees and their licence has been terminated. It being so, it comes out that it is a mixed question of facts and law as to under which clause of the Court Fee Act, 1870 the case of the plaintiff

will be covered. Therefore, by way of filing application Under Order 7 Rule 11 CPC, the plaintiff cannot be asked to affix the Court fee on the market value of the land.

As such, the impugned order is set aside. The lower Court is directed to frame issue regarding the Court fee and allow the parties to lead evidence. After recording the evidence of the parties on all the issues, if the lower Court finds that the excess Court fee is payable, the lower Court will pass the order in this regard before deciding the other issues and only when the Court fee is paid, the judgment, on the remaining issues will be passed.

13.10.2015
gk

(Kuldip Singh)
Judge