

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.7970 of 2015 (O&M)

Date of Decision.29.11.2015

Ahluwalia & Associates, Architectural & Structural Consultants
.....Petitioner

Vs.

M/s Baba Tele System Private Limited and anotherRespondents

Present: Mr. Kushagra Mahajan, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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

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K. KANNAN J. (ORAL)

1. The revision petition is against the order passed by the trial Court directing the plaintiff to pay ad valorem court fee for ₹ 35 lacs which he has made reference in the suit as damages caused by the defendant company. The suit is for damages against the defendants for allegedly causing monetary loss by their negligent act of installation of the wires of the 2nd defendant company in front of the premises of the plaintiff and it has also caused demolition of the basement of the premises of the plaintiff thereby giving mental torture and spoiling the business of the plaintiff firm. The express statement in the plaint in paragraph 7 reads “that the plaintiff suffered a loss to the tune of ₹35 lacs at the hands of the defendants as whatever happened as mentioned above was due to the contributory negligence of the defendant” (sic).

But while paying the court fee in paragraph 10, the plaintiff would state

“that the amount which the plaintiff has claimed could not be assessed at the stage without recording of evidence of parties and the plaintiff values the suit for the purpose of court fee at ₹130/- and the requisite court fee is affixed on the plaint and the suit is valued on ₹35 lacs for the purpose of jurisdiction.” It is rather strange way of drafting a plaint and assessing the court fee. There cannot be two methods of valuation, one for the purpose of jurisdiction and another for the purpose of court fee. Jurisdiction and court fee ought to refer to the same thing for determining the pecuniary jurisdiction of the Court. Evidently, the plaintiff would say that for the purpose of jurisdiction valuation will be ₹35 lacs/- and for the purpose of valuation of court fee valuation will be ₹20,000/- for which ₹130/- is paid. The manner of valuation is insupportable and correctly declined by the court below.

2. The learned counsel would argue that the judgment of the Supreme Court in *Shiv Kumar Sharma Vs. Santosh Kumari 2007(8)SCC 600* will answer the point for him that if there was a suit was for specific performance and the plaintiff was claiming damages, it is possible for the plaintiff to make a notional valuation of the same and pay court fee for the same. We are not now talking about an issue of a notional valuation where a reasonable valuation is made by the plaintiff and court fee sought to be paid. In this case, the plaintiff would make a reference to the fact in the plaint that the defendant has caused damages to the tune of ₹35 lacs and would also state in the court fee paragraph that for the purpose of jurisdiction value of the property is ₹35 lacs. There is no question of the plaintiff being allowed to value it differently only for the purpose of court fee at ₹20,000/-. The counsel

would also make reference to two other judgments. One is the judgment in Subhash Chander Goel Vs. Harvind Sagar 2003 AIR Punjab 248 where the Court was allowing for notional valuation to be made in suit for damages for defamation. I respectfully disagree with the law expressed by the learned Judge as not legally tenable. A notional valuation can be adopted in cases where the Act itself provides for notional valuation such as Court Fee Act itself makes possible a notional valuation. It obtains in situation like declaratory relief and for the relief of injunction as provided under Section 7(iv) where the Court Fee Act provides that the “plaintiff shall state the amount at which he values the relief sought.” It could only be suit for mere account where a notional valuation could be adopted for the court to settle the account and court fee could be collected at the time when the amount is actually ascertained after the calculation of accounts. It cannot be done in a case for damages where the plaintiff knows what he is bargaining for and what according to him the defendant has caused to him. It may not mean that the plaintiff would obtain the entire decree for what he is seeking and where the claim made is an unascertained sum, a certain latitude of approximation must be available for the party to make a reasonable valuation and leave it for the Court to determine the actual damage and offer through plaint averment that as and which the correct amount is adjudged, the plaintiff would be willing to pay/deposit the court fee. But such an approximation must also be reasonable and cannot be an arbitrary valuation such as how it is made in the plaint.

3. The counsel would also refer to the another judgment of this

Court in *State of Punjab and others Vs. Jagdip Singh Chowhan 2005*

(1) PLR 650 in which the Court was holding that in suit for damages on approximate claim of damages for malicious prosecution, the principles of valuation of suit in simple suits for recovery of liquidated claims will not apply for the purpose of court fee. This is again a reiteration of the reasoning adopted by yet another Judge where I have expressed myself as not being in a position to accept.

4. The case must be considered on what is averred in the plaint and the averment in the plaint admits of no ambiguity of what the plaintiff was claiming and what approximation he was making. If there was a definite averment about the nature of loss that has been caused by the defendant, the court fee valuation ought to pertain to such valuation and not arbitrarily low in the manner in which it was adopted. The judgment of the Court below is sustained and the revision petition is dismissed as untenable.

(K. KANNAN)
JUDGE

November 29, 2015
Pankaj*