

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

CR-7993-2014

Date of decision : 28.07.2015

Sahab Singh & Ors.

.....Petitioners

Vs

M/s Rama Krishana Buldwell Pvt. Ltd. & Ors.

.....Respondents

Coram : Hon'ble Mr. Justice M.M.S. Bedi

- 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?**

Present : Mr. Navneet Singh, Advocate
for the petitioners.

Mr. J.L. Malhotra, Advocate
for the respondents.

M.M.S. BEDI, J. (oral)

This revision petition is against the order dated 16.10.2014 dismissing the application of the defendant-petitioner under Order VII Rule 11 Code of Civil Procedure seeking the rejection of the plaint on account of non-payment of proper court fee on the suit.

The facts relevant for adjudication of the present revision are that the plaintiff has filed a suit for recovery of ₹1,79,00,000/- on the basis of an agreement of sale dated 25.3.2006 whereas the total amount of sale consideration agreed between the parties was ₹7,69,23,000/-. The relief of specific performance has been claimed as an alternative relief. The primary relief claimed by the plaintiff-respondent is the recovery of the earnest money.

The trial Court has dismissed the application on the ground that the plaintiff-respondent has already affixed the court fee of ₹7,12,370/- on the amount of ₹1,79,00,000/-. So far as the relief of specific performance in the alternative, is concerned, the Court has observed that it is always open to the court to direct the plaintiff to pay the court fee on the entire sale consideration amount in the agreement in case the relief of specific performance is pressed or contested and granted to the plaintiff-respondent.

The rights of the defendant-petitioners have not been prejudiced, in any manner, vide impugned order. The plaint of the plaintiff-respondent cannot be outrightly rejected in toto on account of the abovesaid circumstances especially, when the Court fee has been paid commensurate with the amount which is sought to be recovered.

In view of the above observations, I do not find any ground to interfere in the impugned order. The petition is dismissed.

However, the trial Court is directed to conclude the case expeditiously .

28.07.2015

sp

**(M.M.S.BEDI)
JUDGE**