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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO(OS) 378/2015**

GURMIT SINGH

..... Appellant

Through : Mr D. K. Chawla with Mr K. Vankatraman

versus

AMARJIT SINGH

..... Respondent

Through : None

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

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20.07.2015

CM 12475/2015

Allowed subject to all just exceptions.

FAO(OS) 378/2015 & CM 12474/2015

The learned counsel for the appellant is aggrieved by the order dated 20.05.2015, whereby the appellant/defendant's application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (IA 23422/2014) has been rejected by the learned Single Judge. The ground taken by the appellant/ defendant was that the suit was grossly undervalued and that the adequate court fee has not been affixed on the plaint and, as a result, the same was liable to be rejected under Order 7 Rule 11 CPC read with the Court Fees Act.

The learned Single Judge noted that the plaintiff had valued the suit at Rs 23,37,713.30 for which an initial court fee of Rs 130/- was paid. But, thereafter, an application was filed by the respondent/ plaintiff and he was permitted (without any objection from the defendant-appellant herein) to amend the plaint and the relief of possession was permitted to be incorporated. The deficiency in the court fee was paid, based on the valuation given in the plaint. To be clear, the respondent/ plaintiff paid the

court fee of approximately Rs 25,000/-.

The argument raised by the appellant was that the plaint was undervalued and appropriate court fee had not been affixed on the basis of even the circle rate. The learned Single Judge noted that the court fee payable as per the averments made in the plaint had been paid and refrained from giving any direction for rejection of the plaint under Order 7 Rule 11, while observing that the defence raised by the appellant/defendant could not be investigated at this stage.

We see no reason to interfere with the impugned order inasmuch as *de hors* the dismissal of the Order 7 Rule 11 application, it would be open to the appellant/defendant to raise an issue with regard to undervaluation and inadequate court fee at the time of framing of the issues.

The appeal is dismissed with no order as to costs.

BADAR DURREZ AHMED, J

JULY 20, 2015
SR

SANJEEV SACHDEVA, J