

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

C.R. No.1866 of 2014

Date of Decision.07.01.2016

Satnam Singh

.....Petitioner

Vs.

Mandeep Kaur and another

.....Respondents

Present: Mr. Sarbjit Singh, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

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?

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K. KANNAN J. (ORAL)

1. The revision petition is brought at the instance of the defendant on a plea that the Court fee has not been properly paid. According to him, the daughter-in-law who is the plaintiff makes a claim for maintenance for herself and for her child @ ₹15,000/- in aggregate per month which works out to ₹1,80,000/- per year and Section 7(ii) requires that the valuation shall be made on ten times the amount claimed to be payable for one year. The court fee has been paid valuing the suit at ₹1,80,000/- when it should have been at ₹18 lacs.

2. Learned counsel appearing for the respondents states that the issue relating to court fee is not a matter which the defendant can feel aggrieved about and if the Court has allowed for continuance of the suit, no grievance can be made by the petitioner.

3. I accept the contention that the defendant cannot be stated to be aggrieved but I would find that the Court as a guardian for the

State resources must ensure that the appropriate court fee is paid and if it is not properly valued, the Court shall follow the procedure as prescribed under Order 7 Rule 11 CPC to direct the court fee to be paid and reject the plaint if the court fee is not paid under Order 7 Rule 11 (c) CPC. The counsel for the respondents states that she has not the resources to pay the court fee. It will be open for the respondent to apply to the Court as an indigent person, if such a case could be made. It cannot be an excuse now for the respondent to contend that she will have an arbitrary valuation to be adopted in the suit. The contention made by the counsel for the respondents is, therefore, rejected.

4. The impugned order is set aside and the civil revision is allowed on the above terms. Before parting, I must observe that ten times the annual maintenance as the valuation of court fee is very stiff and unrealistic. A claim to maintenance in matrimonial setting in India is predominantly by wife and to lesser degree by parents, who have not the resources to fend for themselves. To burden them with a stiff levy of court fee by an artificial escalation by factoring ten times the annual maintenance is not merely meaningless but oppressive. They shall operate against gender justice. I exhort the State Governments of Punjab and Haryana to suitably amend the provision in Court Fees act and exempt claims for maintenance from payment of court fee or provide only for modest court fee. It must be remembered that the Legal Services Authority Act guarantees the legal aid to be given to a woman irrespective of her economic status and access to justice is one of the key constitutional objectives. I direct the registry to despatch this order copy to the Chief Secretaries of Punjab, Haryana and the U.T.

Chandigarh for putting up proposals before the respective legislative bodies to consider change of law.

(K. KANNAN)
JUDGE

January 07, 2016
Pankaj*