

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.2447 of 2015 (O&M)
Date of Decision: September 23rd, 2016

Rajpal @ Pale Ram (since deceased) through L.Rs & others

...Petitioners

Versus

Om Parkash & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Aditya Jain, Advocate,
for the petitioners.

Mr.Arun Tyagi, Advocate,
for respondent Nos.1 to 6 &
all the legal heirs.

AMIT RAWAL, J. (Oral)

Civil Misc.No.19127-CII of 2016

Prayer in the application is for placing on record documents,
Annexures P-13 to P-16.

Allowed subject to all just exceptions.

Documents are taken on record.

Civil Revision No.2447 of 2015

Petitioner-defendants are aggrieved of the impugned order dated 9.2.2015 (Annexure P-1), whereby the application moved under Order 7 Rule 11 CPC to pay the *ad valorem* court fees on the market price of the property has been disposed of by calling upon the plaintiffs to pay the court fees by assessing the price of the property as ₹50,000/- net profit.

Mr.Aditya Jain, learned counsel for the petitioner-defendants submits that it is a suit for possession of the land. The nature of the land is Banjar Kadim, thus, it does not incur any land revenue, therefore, *ad valorem* court fees has to be on the market price and, thus, the trial Court has committed illegality and perversity.

Per contra, Mr.Arun Tyagi, learned counsel for the respondent-plaintiffs submits that as per the provisions of Section 7 (v) (c) of the Court Fees Act, 1870, in case the land is not subjected to any land revenue, then the income earned from the adjacent land/cultivable land, has to be taken into consideration, which has been done by the trial Court and, therefore, there is no illegality and perversity in the impugned order. In support of his contention, he has relied upon the judgment of the Single Bench of this Court in **Hardam Singh Versus Angrej Singh and others, 2014 (2) Latest Judicial Reports 451.**

I have heard the learned counsel for the parties, appraised the paper book and of the view that the question determined by the trial Court in the impugned order calling upon the plaintiffs to pay the court fees as mentioned in the impugned order is kept open, in essence the objection of the petitioner-defendants shall be taken into consideration after the trial of the suit. In case the parties are able to lead evidence whether the property is subjected to any land revenue or not, the trial Court shall, after examining the evidence, call upon the parties to pay the court fees in case the land is not incurring any land revenue.

Mr.Tyagi submits that the plaintiffs have already led evidence and, therefore, should be given one opportunity to lead evidence.

Mr.Jain submits that ofcourse the findings of this Court would

have a direct bearing on the adjudication of the suit vis-a-vis the court fees and, therefore, he would not be averse in case one opportunity in respect of the issue of court fees is given to the respondent-plaintiffs subject to the rebuttal. Since the suit is at the stage of defendants' evidence, the petitioner-defendants would rebut the evidence led by the plaintiffs vis-a-vis the court fees also.

For the foregoing reasons, the revision petition stands disposed of.

September 23rd, 2016
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No