

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

-.-

CR 2753 of 2013

Date of decision: 30.09.2016

Bharat Lal

..... Petitioner

Versus

Surder Lal and others

.....Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Sherry Goel, Advocate for
Mr. J K Goel, Advocate
for the petitioner

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Rekha Mittal, J. (oral)

The present petition has been directed against order dated 12.04.2013 passed by Additional Civil Judge (Senior Division) Kurukshetra whereby the petitioner has been directed to pay Court fee on value of the property in dispute while disposing of an application under Order 7 Rule 11 of Code of Civil Procedure (in short, 'CPC') filed by the respondents/defendants.

Counsel for the petitioner states that as the petitioner has not challenged any sale deed, he is not liable to pay Court fee on value of the property in dispute.

I have heard Counsel for the petitioner and perused the paper book particularly the order impugned.

On April 6, 2016, the order passed by this Court reads as follows:

“The Counsel seeks for time for taking

instructions of whether he would press for the relief of possession or not to avoid the liability to pay the Court fee.

Adjourned to 28.05.2016.”

Counsel for the petitioner informs that the petitioner presses his claim for possession of the suit property. As the petitioner has filed a suit for possession, his case would be covered by the provisions of Section 7(v) of the Court Fee Act 1870 as amended by the State of Haryana (in short, 'the Act'). The petitioner in the plaint in para 12 has averred that value of the suit for the purpose of Court fee and jurisdiction is Rs.200/- hence, a Court fee of Rs.5.00 is affixed on the plaint. However, it has not been averred as to on what basis the petitioner has valued the suit for the purpose of Court fee at Rs.200/-. Section 7(v) of the Act says that in suits for possession of land, houses and gardens, the Court fee shall be payable according to value of the subject matter and such value has been described in clauses (a) to (d). Counsel for the petitioner is not in a position to say that his case is covered under any of the clauses (a) to (c) to escape payment of Court fee on market value of the suit property. That being so, I do not find any error much illegality in the order impugned warranting intervention.

Dismissed.

(Rekha Mittal)
Judge

30.09.2016
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No