

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 4111 of 2015 (O&M)

Date of decision: 08.04.2016

Dharamshala Dhey Haja and another

... Petitioners

versus

Ashok and others

.... Respondents

2. CR No. 1266 of 2015 (O&M)

Dharamshala Dhey Haja and another

... Petitioners

versus

Ashok and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Abhishek Yadav, Advocate for the petitioners.

Mr. Jai Singh, Advocate for respondent No.24.

K.Kannan, J. (ORAL)

Counsel for the petitioner states that he does not seek for possession and he will be satisfied with mere relief of declaration as the property is in his possession. The direction for payment of *ad valorem* Court fee on the market value is, therefore, not competent. The defendant claims that he is in possession of the property and that the property was already partitioned and the respective sharers are in possession of the property owned by them. The petitioner is, therefore, bound to pay ad valorem court fee.

The counsel asserts that he will not press for relief of recovery of property at any time and that if the possession of the plaintiffs is not proved on the date of suit, the Court may decline to grant any relief against the defendant for grant of recovery. I record the submission and it will bind the party at all times. The Court fee paid

already is taken as sufficient, the order impugned is set aside and the revision petition is allowed.

The revision petition in CR No. 4111 of 2015 is at the instance of the plaintiff who had secured the interim relief of injunction at the trial Court against the respondents from in any manner interfering with the plaintiffs possession and for a restraint against the alienation. The Court had granted the relief, the Appellate court vacated the order relying the *jamabandis* which had been shown the plaintiffs' name but also the defendants' name and put in possession of the property held by all the respective sharers. There is no prima facie case for the plaintiff to seek for injunction against the respondents, when the respondents are asserting their own ownership in respect of particular sharers and also claim to be in possession of the property as per the *jamabandi* entries. The order passed by the Appellate Court vacating the order of injunction was justified in the circumstances and I will find no reason for interference with the same. The civil revision petition is dismissed.

(K.KANNAN)
JUDGE

08.04.2016

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