

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.4713 of 2016 (O&M)

Date of decision: 26.7.2016

Rajender Parsad and others

.....petitioners

Versus

Vinod Kumar and others

.....respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Madan Gupta, Advocate,
for the petitioners.

RAJ MOHAN SINGH, J.(oral)

1. In this revision petition, petitioner has assailed the order dated 12.7.2016, whereby trial Court has accepted the prayer of the defendants under Order 7 Rule 11 of CPC.

2. Plaintiffs filed a suit for declaration and permanent injunction with alternate relief of recovery of ₹ 54,61,200/- along with registration fee and stamp expenses. Declaration was also sought in respect of Civil Court decrees and consequent mutations being illegal, null and void and were based on fraud.

3. Plaintiffs purchased 41 kanals 11 marlas of land from defendants No.1 to 4 for a total consideration of ₹ 1,03,88,000/- vide registered sale deed dated 6.5.2011. Mutation No.4336 was also sanctioned in favour of the plaintiffs on 1.8.2011. There was *inter se* dispute between vendor of the plaintiffs and some co-sharers in the

land. Their *inter se* dispute ultimately resulted in passing of Civil Court decree on 15.11.2011 in favour of the co-sharers, thereby, reducing the entitlement of the vendor of the plaintiffs to the extent of half. Plaintiffs being aggrieved by such deduction in the entitlement of their vendor (which ultimately fell upon their entitlement) ventured to file the suit in question with alternate relief of recovery of part of the sale consideration i.e. ₹ 54,61,200/- along with interest @ 18% including registration and stamp charges.

4. Since the plaintiffs have staked their claim regarding recovery of part sale consideration from their vendor, therefore ad valorem court fee is required to be affixed on the plaint. The substantial relief claimed by the plaintiffs though was in the form of declaration qua the Civil Court decrees and consequent mutations, but alternate relief of recovery was also one of the claim made by the plaintiffs, for which payment of ad valorem court fee is necessary. The trial Court, while accepting the application directed the plaintiffs to pay ad valorem court fee on or before 26.7.2016 i.e. today.

5. Having considered the submissions, I am of the view that alternative relief of recovery certainly requires affixation of ad valorem court fee.

6. During the course of arguments, learned counsel submits that entire situation be considered sympathetically. Since the petitioners have been made to suffer on account of unwarranted litigation *inter se* between their vendor and co-sharers, therefore reasonable extension of time for payment of ad valorem court fee be granted. This part of prayer is worth consideration. Since huge

amount of ad valorem court fee is required to be paid and the plaintiffs/petitioners have shown their willingness to pay the same, therefore, time for paying the advalorem court fee is required to be extended by two months.

7. Keeping in view the nature of order being passed, there is no necessity of calling upon the respondents at this stage.

8. Accordingly, this revision petition is dismissed. However, petitioners are granted time to make good the required ad valorem court fee on or before 20.9.2016.

July 26, 2016
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(RAJ MOHAN SINGH)
JUDGE