

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.4911 of 2016

Date of Decision: August 03, 2016

Sumitra and Others

---Petitioners

versus

Smt. Sarjo and Others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Bhupender Singh , Advocate
for the petitioners.

Rekha Mittal, J.(Oral)

The present petition has been directed against order dated 04.07.2016 (Annexure P-2) passed by the Civil Judge (Senior Division), Panipat whereby application filed by the petitioners under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (in short 'CPC') for rejection of plaint on the ground of non-payment of requisite Court fee has been dismissed by holding that since issue has already been framed with regard to Court fee, the Court does not deem it fit to opine on the present application, at this stage, when the case is pending for PWs.

Counsel for the petitioners would submit that even if the trial Court has framed an issue qua Court fee, the Court was obligated to decide the application on merits or treat the issue with regard to Court fee as a preliminary issue. He has prayed that the petition may be disposed of with liberty to the petitioners to file an appropriate application before the trial Court for treating the issue with regard to Court fee as a preliminary issue, for its decision at the first instance.

I have heard counsel for the petitioners, perused the paper book and the impugned order.

Without expressing any opinion on merits whether the respondents/plaintiffs are liable to pay Court fee more than what has already been affixed on the plaint, the present petition is disposed of with liberty to the petitioners to file an appropriate application before the trial Court for treating the issue qua Court fee as a preliminary issue. In case, such an application is filed, the same would be decided by the trial Court within a period of one month of its filing after, hearing the parties, in accordance with law.

(Rekha Mittal)
Judge

August 03, 2016
'Rishabh'

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No