

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

**CR No.5405 of 2016
Decided on.30.08.2016.**

Dev Raj

.....Petitioner

Versus

Hakam Singh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Vishal Aggarwal, Advocate
for the petitioners.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 27.07.2016 passed by the learned Additional District Judge, Bathinda, whereby the application moved by the petitioners for rejection of the memorandum of appeal for non payment of the proper Court fees has been dismissed.

2. Learned counsel for the petitioner contended that the plaintiffs-petitioners have filed the suit for specific performance and in the alternative they have sought the recovery of Rs. 16 lacs. In the appeal, the petitioners have sought the relief of dismissal of the suit. Thus, he contended that the respondents were required to affix the Court fees on the entire value of the suit.

3. I have duly considered the aforesaid contentions.

4. Petitioners-plaintiffs have filed the suit for specific performance and in the alternative for recovery of Rs. 16 lacs being double of the amount of the earnest money. The learned trial Court has

decreed the suit of the petitioners only for the alternative relief of refund of Rs. 8 lacs i.e. the earnest money. Respondents no. 1 to 6 have filed the appeal to challenge the decree for recovery of Rs. 8 lacs along with interest passed by the learned trial Court. This fact is not disputed that respondents no.1 to 6 have already affixed the requisite Court fees on the amount of Rs. 8 lacs. Appellants were aggrieved only against the decree for recovery of Rs. 8 lacs and had challenged that decree. So, they were not required to affix the Court fees on the entire relief claimed by the petitioners in the suit. They were required to affix the Court fees only on the amount of the decree for recovery passed against them, which they have already affixed.

5. Thus, keeping in view my aforesaid discussion, I do not find any illegality in the impugned order passed by the learned trial Court, which does not call for any interference by this Court.

6. Thus, the present revision petition having no merits, is hereby dismissed.

30.08.2016

S.khan

(DARSHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No