

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR No.5476 of 2016(O&M)
Decided on.27.08.2016.

Rajesh Kumar and others

.....Petitioners

Versus

Jai Singh (deceased) through his LRs.

.....Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.Munish Jolly, Advocate
for the petitioners.

DARSHAN SINGH, J. (Oral)

The present revision petition has been preferred against the order dated 18.07.2016 passed by the learned Civil Judge (Jr. Division), Panipat, vide which the application moved by defendant-Rajbir Singh under order 7 Rule 11 of the Code of Civil Procedure, 1908 (for short C.P.C.) for rejection of the plaint on account of deficiency in the Court fees has been allowed and the plaintiffs-petitioners have been directed to make good the deficiency in the Court fees within one month from the date of order.

2. Plaintiffs-petitioners have filed the suit for possession of the double storey *pucca* shop against the defendants on the basis of their title. It was further pleaded that Jai Singh, the predecessor-in-interest of the defendants was inducted as licensee in the said shop and the said license was terminated by serving the legal notice dated 17.01.2015. Plaintiffs-petitioners have affixed only the Court fees of Rs.25/- for the relief of possession.

3. During the pendency of the suit, respondent-Rajbir Singh moved an application under Order 7 Rule 11 CPC on the grounds *inter*

alia that plaintiffs have admitted the value of the shop in dispute to be Rs. 15 lacs. He has not affixed the *ad valorem* Court fees as per the value of the shop in dispute. So, the suit of the plaintiffs may be dismissed.

4. This application was contested by the petitioners-plaintiffs on the ground that the suit for possession from a licensee is maintainable without Court fees.

5. The learned trial Court on appreciating the contentions raised by learned counsel for the parties directed the petitioners-plaintiffs to affix the necessary Court fees within one month from the order providing them a chance to make good the deficiency in the Court fees before rejecting the plaint.

6. I have heard Mr. Munish Jolly, Advocate, learned counsel for the petitioners and has meticulously gone through the paper book.

7. Initiating the arguments, learned counsel for the petitioners contended that the plaintiffs have filed the suit for possession on the basis of their title that Jai Singh-predecessor-in-interest of respondents was just a licensee in the demised premises. Said license stands revoked. So, the plaintiffs were not required to affix the Court fees as per the value of the suit property. He further contended that the application has been moved at the stage when the case is fixed for recording the evidence. Learned trial Court has not complied with the provisions of Section 9 of the Court Fees Act, 1870 (for short 'Act') in order to ascertain the net market value of the suit property. Thus, he contended that the impugned order is illegal.

8. I have duly considered the aforesaid contentions.

9. Plaintiffs-petitioners have filed the suit for possession with respect to the double storey *pucca* shop in village Israna, District Panipat. Plaintiffs-petitioners have affixed only a Court fees of 25/- with respect to

the relief of possession. As per Section 7 (v) of the Act, in a suit for possession of the house, the value of the suit has to be done as per the market value. Certainly, the plaintiffs-petitioners have not valued the suit as per the market value of the property.

10. Plaintiff no.2- Sat Narain has appeared in the witness box and in the cross-examination he has admitted that the value of the suit property now a days might be Rs. 15 lacs. He further stated that he is not ready to sell the land even on the present value of Rs.15 lacs. Thus, plaintiff-petitioner no.2-Sat Narain has categorically admitted in the cross-examination that the prevailing market value of the demised premises is Rs. 15 lacs. In view of this clear admission of the petitioner, the learned trial Court was not required to conduct any inquiry to ascertain the market value of the suit property. As the petitioners are seeking the relief of possession on the basis of their title from the respondents, so as per the provisions of Section 7 (v) of the Act, they are required to affix the Court fees as per the market value of the suit property which admittedly as per the cross-examination of plaintiff no.2-Sat Narain is Rs. 15 lacs.

11. 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.

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

(DARSHAN SINGH)
JUDGE

27.08.2016

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No