

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

**CR No.5505 of 2016
Decided on: 29.08.2016**

Gurjuj Singh and another

....Petitioners

Versus

Narinder Mohan and others

....Respondents

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. G.L. Bajaj, Advocate
for the petitioners.

REKHA MITTAL, J.

By invoking Article 227 of the Constitution of India, the present petition directs challenge against order dated 18.07.2016 (Annexure P-4) passed by the Civil Judge (Jr. Division), Ferozepur whereby the petitioners have been directed to pay *ad valorem* court fee at the market rate of property (collector rate) *qua* relief of possession in regard to land measuring 22 kanals.

The petitioners have filed a suit for possession of land measuring 22 kanal, described in detail in headnote of the plaint, with consequential relief of permanent injunction restraining the defendants from demolishing brick-kiln, rooms over the suit land and further not to change nature of land.

Counsel for the petitioners has submitted that as suit land is assessed to land revenue, value of the land for the purpose of court fee, in the circumstances, is to be taken ten times of the annual land revenue thereof, therefore, valuation for the purpose of court fee and jurisdiction assessed at Rs.130/- and payment of court fee of Rs.100/- is proper court fee, affixed on the plaint. It is further submitted that the

learned trial Court, without appreciating the provisions of the Stamp Act in right perspective, has committed a gross error by directing the petitioners to pay court fee at market value of the property i.e. collector rate.

I have heard counsel for the petitioners, perused the paperbook particularly the order impugned.

In para 10 of the plaint, the petitioners have set up their averments with regard to valuation of suit for the purpose of jurisdiction and court fee. A relevant extract therefrom reads as follows:-

“That the value of the suit for the purposes of court fee and jurisdiction is assessed as Rs.130/- and a court fee of Rs.100/- is affixed on the plaint. The value of the suit for the purpose of court fee and jurisdiction for the relief of possession along with mesne profit is assessed as Rs.16,725/- and a court fee has been affixed on the plaint.”

A plain reading of para 10 does not make it clear as to for what purpose value of the suit has been assessed at Rs.130/- in regard whereof a Court fee of Rs.100/- is affixed on the plaint. The petitioners have valued the suit for the purpose of court fee and jurisdiction *qua* relief of possession along with mesne profits at Rs.16,725/- and affixed the court fee accordingly.

Counsel for the petitioners has not disputed findings of the trial Court that value of suit for the purpose of mesne profits @ Rs.2,00,000/- per acre for land measuring 22 kanals would come out to be Rs.5,50,000/- and *ad valorem* court fee for the said amount would be Rs.16,725/- which has been affixed by the plaintiffs. Counsel has

further not disputed that the suit land is not agricultural land as there exists a brick-kiln since the year 1994 and as such is *gair mumkin* used for commercial purpose. There is not even a whisper in the plaint that suit has been valued for the purpose of court fee and jurisdiction at Rs.130/- for claiming relief of possession and court fee of Rs.100/- is affixed, being ten times of the land revenue assessed on the land.

Apparently, it appears that para 10 of the plaint is the result of clever drafting by a fertile legal mind with an intent to avoid payment of requisite court fee *qua* possession of suit land. Indisputably, clever drafting by an astute lawyer cannot be allowed to circumvent the relevant provisions in law and avoid liability to pay court fee. The Court can look into substance of the relief claimed in the suit with a purpose to examine if the plaintiff(s) has affixed proper court fee or otherwise. In the given facts and circumstances, I do not find any error much less illegality in the order impugned directing the petitioners to pay *ad valorem* court fee *qua* relief of possession on the basis of collector's rate of suit property.

For the foregoing reasons, the petition fails and is accordingly dismissed *in limine*.

29.08.2016
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(REKHA MITTAL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No