

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No. 6164 of 2015
Date of Decision: 13.1.2016**

Mohinder Singh Thind

---Petitioner

versus

S.B.Patil Dental College and Hospital and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Manuj Nagrath, Advocate
for Mr. Vikram Anand, Advocate
for the petitioner

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

The present petition lays challenge to order dated 16.7.2015 passed by the Civil Judge (Junior Division), Kaputthala whereby the application filed by respondents No. 1 to 3 under Order VII Rule 11 of the Code of Civil Procedure (in short "CPC") for rejection of the plaint has been allowed on the ground that the petitioner has not paid court fee (*ad valorem*) on the amount sought to be recovered as he tried to avoid payment of court fee under the guise of framing the suit in the form of mandatory injunction.

Counsel for the petitioner has submitted that while disposing of the application in favour of the respondents that the petitioner is liable to

pay *ad valorem* court fee, no opportunity was allowed to the petitioner to make good deficiency of court fee. It is further submitted that the petitioner is ready to pay *ad valorem* court fee, therefore the order impugned may be set aside with a direction to the trial court to allow the petitioner to pay *ad valorem* court fee.

I have heard counsel for the petitioner and perused the records.

Order VII Rule 11 CPC provides for certain contingencies where the plaint shall be rejected. Clause (b) of Order VII Rule 11 CPC provides that where the relief claimed is undervalued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so.

A plain reading of clause (b) makes it evident that the court is required to give time to the plaintiff to correct the valuation. In the case at hand, the court while disposing of the application of the respondents holding that the petitioner is liable to pay *ad valorem* court fee did not provide an opportunity to the petitioner to correct the valuation. As the petitioner has expressed his willingness to pay the *ad valorem* court fee, the impugned order is liable to be modified to the extent that the petitioner is allowed 15 days time to pay court fee from the date of receipt of certified copy of the order. In case, the petitioner pays the requisite court fee, the order rejecting the plaint would no longer subsist and the trial court shall proceed with the case, in accordance with law.

Before parting with this order, it is pertinent to mention that the petition has been disposed of without giving notice to the respondents to save them from inconvenience and unnecessary expenses. The respondents

would be at liberty to file an appropriate application in case they have any grievance to express in the matter.

Petition stands disposed of accordingly.

(Rekha Mittal)
Judge

13.1.2016

PARAMJIT