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

Civil Revision No.134 of 2016

Date of Decision: 14.07.2017

Geeta and others

. . . Petitioners

Versus

Kamlesh Devi and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjay Mittal, Advocate
for the petitioners.

Mr. Ashok Kumar Khubber, Advocate
for the respondent No.1.

Anil Kshetarpal, J. (Oral)

In this revision petition, plaintiffs have challenged the order dated 16.11.2015 passed by the Civil Judge (Junior Division), Yamuna Nagar at Jagadhri rejecting the plaint under Order 7 Rule 11 CPC, as a consequence of non-compliance of order dated 06.04.2015.

I have found that ad valorem court fee on the amount of Rs.8,50,000/- is not payable and that order has been set aside. The impugned order in the present petition is consequential in nature, as due to non deposit of ad valorem court fee, the plaintiff has been rejected.

Learned counsel for respondent No.1 has vehemently contended that since the plaint has been rejected and rejection of plaint is

a decree as per Section 2 Sub-section 2 CPC, therefore, petitioner should be relegated to the remedy of appeal.

I have considered the arguments addressed by the learned counsel for the respondent, however, I am unable to agree with the same.

Once the Civil Revision No.125 of 2016 has been allowed and it has been found that ad valorem fee on Rs.8,50,000/- is not payable. The plaintiffs are required to make up the deficiency in accordance with the State amendment in the Court Fee Act by the State of Haryana.

In these circumstances, it would not be proper to relegate the petitioner to the remedy of an appeal. Therefore, the present revision petition is allowed. Plaintiffs are given an opportunity to make up the deficiency within 30 days from the date of receipt of the copy of this order.

In view of the discussion above, the impugned order passed by the Civil Judge (Junior Division), Yamuna Nagar at Jagadhri, dated 16.11.2015, is hereby set aside.

Revision petition stands allowed.

[ANIL KSHETARPAL]
JUDGE

14.07.2017
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Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No