

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

Civil Revision No.5544 of 2015 (O&M)  
Date of Order: 18.09.2017

Santosh Kumar

..Petitioner

Versus

Rakesh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.S.Mamli, Advocate,  
for the petitioner.

Mr. Harsh Aggarwal, Advocate,  
for the respondents.

ANIL KSHETARPAL, J (Oral)

Defendant no.1 is in revision petition against the order passed by the Civil Judge (Jr. Division), Kurukshetra, dated 26.05.2015, directing the defendants-counter claimants to fix the ad valorem court fee.

It is not in dispute that defendant no.2, the father, filed a counter claim and sought relief of mandatory injunction on the ground that the plaintiff is only a licensee.

As per Section 7(iv)(d) of the Court Fee Act, 1870, there is no provision for payment of ad valorem court fee for maintaining the suit for injunction. Counter claim is only with respect to mandatory injunction.

No doubt, by mandatory injunction, defendant no.2 is praying for restoration of the possession, however, such relief is being prayed against the alleged licensee. After terminating the licence, licensor is entitled to maintain the suit for mandatory injunction against the licensee.

Licensor is not required to file a suit for possession.

Still further the Court has committed a material irregularity in just ordering affixation of ad valorem court fee without quantifying the amount and without specifying as to what is the value of the property. General directions that ad valorem court fee should be affixed are not proper.

If the Court is of the view that ad valorem court fee is payable, then the Court should quantify the amount of Court fee required to be paid so becomes clear to the party that how much court fee is required to be affixed.

In view of what has been recorded hereinabove, the revision petition is allowed and the order passed by the Civil Judge (Jr. Division), Kurukshetra, dated 26.05.2015, is set aside.

**September 18, 2017**  
**nt**

**(ANIL KSHETARPAL)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

: Yes/No  
: Yes/No