

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.5368 of 2017

Date of Decision: 19.12.2017

Khushi Dass

.....Appellant

Vs.

Amar Singh

.....Respondent

BEFORE: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Narender Pal Bhardwaj, Advocate,
for the petitioner.

RITU BAHRI, J. (ORAL)

The petitioner has come up in revision against the order dated 17.07.2017 whereby the application of the petitioner/defendant filed under Order 7 Rule 11 (Annexure P-4) for rejection of the plaint has been declined.

The brief facts of the case are that the respondent/plaintiff filed a suit for recovery of Rs.8,00,000/- along with interest of 12% per annum from 07.04.2011 till realization along with future interest @ 6% per annum. The petitioner/defendant moved an application dated 10.07.2017 (Annexure P-4) under Order 7 Rule 11 CPC for rejection of plaint on account of deficiency of Court fee affixed by the plaintiff. The plaintiff/respondent affixed advolerum Court fee of Rs.21,000/- on the plaint. After notice of this application, the trial Court has observed that there was a deficiency of Rs.1350/- which could be affixed by the plaintiff within time granted by the Court. On that basis, the plaintiff has claimed the application under Order 7 Rule 11 CPC has to be dismissed.

Learned counsel for the petitioner has referred to the judgment in

276, will not be applicable to the fact of the present case as in the present case, issue was with respect to fixing the Court fee at the stage of appeal filed by the State Bank of India. In this case, it was required to construe the expression “ value of the subject matter in dispute in appeal for the purposes of determining the amount of court fee due on memorandum of appeal filed in a Civil Court is contained in Article I of Schedule I of the Court fee Act. According to which the Court fee is to be paid ad valorem according to the amount or value of the subject matter in dispute.

Learned trial Court had disposed of the said application on the ground that plaintiff had filed a suit for recovery of Rs.8 Lacs but it was not certain that what the exact money, he going to be recovered and cannot be ascertained because the rate of interest was to be determined by the Court. Therefore, at that stage Court fee was going to charge on interest and a direction was rightly given to the plaintiff/respondent to make the deficiency in Court fee of Rs.1350/- on Rs.8 Lacs which was sought to be recovered from the defendant/petitioner.

So, after going through the impugned order dated 17.07.2017, the orders of the trial Court does not reflect any material irregularity or perversity which warranting interference. Hence the present revision stands dismissed.

(RITU BAHRI)
JUDGE

19.12.2017

anil

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