

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

-.-

Civil Revision No. 6755 of 2017

Date of decision: 29.09.2017

Dushyant Bansal

..... Petitioner

Versus

Lalit Mohan Raj Purohit and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Sarju Puri, Advocate
for the petitioner

-.-

Rekha Mittal, J. (Oral)

The present petition directs challenge against orders dated 24.03.2017 (Annexure P1) and 16.08.2017 (Annexure P2) passed by the Civil Judge (Senior Division) Jalandhar whereby the petitioner was directed to pay Court fee on a sum of Rs.55,00,000.00 at which the suit is valued for the purpose of Court fee and jurisdiction.

The Trial Court passed order dated 24.03.2017 as per report made by Reader of the Court that proper Court fee has not been affixed. Later, an application was filed by the petitioner for recalling order dated 24.03.2017 with the submission that the petitioner is not liable to pay Court fee on the value of his share of approximately Rs.55,00,000.00 as a fixed Court fee is payable on the relief of separate possession by partition. The application filed by the petitioner was disposed of vide order dated 16.08.2017 and a relevant extract therefrom reads as follows:-

“The perusal of the file shows that my learned predecessor vide order dated 24.03.2017 directed the plaintiff to file court fee as the suit has been valued as Rs.55 lacs. The contention of the plaintiff is that the order passed by my learned predecessor is against law

but the said contention cannot be believed. Moreover, if the plaintiff is aggrieved by any order of this Court then he should go in revision instead of filing application for recalling the order. This Court does not have any power to recall its own order, so the application is dismissed. Court fee be filed on 07.09.2017.”

Perusal of the aforesaid extract would indicate that the Court has held that contention of the plaintiff that order passed by his predecessor is against law cannot be believed but no reasons have been assigned as to why the said contention cannot be accepted particularly in the circumstances that application for recalling order dated 24.03.2017 makes reference to certain judgments which were also noticed by the Court below in the first para of the order impugned.

The plaintiff/petitioner has filed the suit impleading 144 defendants being contesting and about 80 as pro forma defendants and notice in the suit is yet to be issued. As the Court below has not assigned any reason while rejecting claim of the plaintiff/petitioner and that too without adverting to the judgments relied upon, the petition is disposed of with a direction to the Court below to pass a detailed order after examining the judgments, referred to in the application for recall of order dated 24.03.2017. The Court while disposing of the application (Annexure P4) afresh shall not be influenced by order dated 16.08.2017.

In the meantime, the order with regard to payment of Court fee shall be kept in abeyance.

(Rekha Mittal)
Judge

29.09.2017
mohan bimbira

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