

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

CR No.6856 of 2017 (O&M)

Date of Decision: 04.10.2017

Devinder Kaur and another

... Petitioners.

Versus

Satinderpal Singh and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Sourabh Goel, Advocate,
for the petitioners.

ANIL KSHETARPAL, J. (ORAL).

The petitioners are in revision petition against the order dated 04.10.2017.

In a counter claim, the petitioners are respondents. The petitioners filed an application under Order 7 Rule 11 CPC for rejection of the counter claim on the ground that the counter claimant is seeking possession and had not paid ad valorem Court fee. The aforesaid application was dismissed. Revision petition was filed in this Court. The counter claimant agreed to pay the Court fee on the counter claim. The matter was, therefore, disposed of.

The counter claimant affixed the Court fee of Rs.3000/- as in the counter claim, relief for possession is sought on the basis of relationship of a co-tenant between the counter claimant and the plaintiff. The plaintiff has once again objected to the maintainability of the counter claim on the ground that ad valorem Court fee on the market value has not been affixed.

It was asserted before the Court that insufficient Court fee has been affixed. The aforesaid application has been dismissed by a well reasoned order.

In my considered opinion, the revision is not maintainable at the hands of the respondents in a counter claim, in view of the judgement passed by the Hon'ble Supreme Court in *Sri Rathnavarmaraja Vs. Smt. Vimla*, AIR 1961 SC 1299, which has been followed by this Court in a number of judgements.

Still further, it is apparent that the counter claim for possession is on the basis of the fact that plaintiff No.2 and counter claimant being co-tenants in the premises in dispute. The counter claim is not filed on the basis of title. He has affixed the Court fee as per the rent payable for a period of one year.

In these circumstances, the revision petition is found to be without merit and the same is dismissed as not maintainable as well as on merits.

The observations made while disposing of the revision petition shall not be taken as expression of final opinion. The petitioners would be at liberty to take such objection in their written statement and they may request the Court to frame appropriate issue in this regard.

(ANIL KSHETARPAL)
JUDGE

04.10.2017
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No