

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-7219-2016 (O&M)

Date of Decision:- 27.09.2017

Rachhpal Singh (now deceased) through his LR

.....Petitioner

Versus

Balbir Singh (now deceased) through his LR and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Rajbir Singh Attri, Advocate, for the petitioner.

Mr. Varun Jain, Advocate, for respondent No.1.

RITU BAHRI, J. (Oral)

Petitioner-plaintiff has come up in revision against the order dated 05.08.2016, passed by learned Additional Civil Judge (Sr. Division), Patiala, whereby an application, made by the respondent for payment of ad-valorem Court fee, has been allowed.

Perusal of the impugned order shows that plaintiff-Rachhpal Singh has filed a suit for declaration and possession of the property, which is in the joint ownership of defendant Balbir Singh. There is a house constructed on the said property. Since he is seeking possession over the suit property, the trial Court has allowed the application and followed the law laid down by the Hon'ble Supreme Court in the case of **Suhrid Singh @ Sardool Singh Vs. Ranbir Singh & others, 2010(2)**

RCR (Civil) 564.

Perusal of the said judgment shows that if a suit for declaration and possession is filed, then he has to pay ad-valorem court fee as provided under Section 7(iv)(c) of the Court Fees Act. In paragraph 5 of the said judgment, the Court has observed is under: -

“5. Court fee in the State of Punjab is governed by the Court Fees Act, 1870 as amended in Punjab ('Act' for short). Section 6 requires that no document of the kind specified as chargeable in the First and Second Schedules to the Act shall be filed in any court, unless the fee indicated therein is paid. Entry 17(iii) of Second Schedule requires payment of a court fee of Rs.19/50 on plaints in suits to obtain a declaratory decree where no consequential relief is prayed for. But where the suit is for a declaration and consequential relief of possession and injunction, court fee thereon is governed by Section 7(iv)(c) of the Act which provides :

"7. Computation of fees payable in certain suits : The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:

(iv) in suits - x x x x (c) for a declaratory decree and consequential relief.- to obtain a declaratory decree or order, where consequential relief is prayed, x x x x x according to the amount at which the relief sought is valued in the plaint or memorandum of appeal.

In all such suits the plaintiff shall state the amount at which he values the relief sought:

Provided that minimum court-fee in each shall be thirteen rupees.

Provided further that in suits coming under sub-clause (c), in cases where the relief sought is with reference to any property such valuation shall not be less than the value of the property calculated in the manner provided for by clause (v) of this section."

The second proviso to Section 7(iv) of the Act will apply in this case and the valuation shall not be less than the value of the property calculated in the manner provided for by clause (v) of the said section. Clause (v) provides that where the relief is in regard to agricultural lands, court fee should be reckoned with reference to the revenue payable under clauses (a) to (d) thereof; and where the relief is in regard to the houses, court fee shall be on the market value of the houses, under clause (e) thereof.”

The ratio of above-said judgment of the Hon’ble Supreme Court has also been followed by this Court in case **Kailash Devi Vs. DAV Senior Secondary School**, 2013(40) RCR (Civil) 305 whereby in the suit for partition of the suit property, claiming to be co-sharer, is allowed to the extent of 59/88 share and in that order was passed to affix the ad-valorem Court fee. It has been observed thereby that since the plaintiff is seeking relief of possession of her share in the suit property by partition thereof, she has to pay ad-valorem court fee on market value of her share in the suit property and not on market value of the entire suit property.

After hearing the learned counsel for the parties and after perusing the above-said two judgments, this Court is of the considered view that learned Additional Civil Judge (Sr. Division), Patiala, has rightly passed the impugned order after appreciating the evidence in the correct prospective. Such order, containing valid reasons, cannot possibly be interfered with by this Court, in exercise of limited revisional jurisdiction of this Court, unless and until, the same is illegal, perverse and without jurisdiction. Since, no such patent illegality or legal infirmity has been pointed out by the learned counsel for the petitioner, therefore, the instant revision petition is hereby dismissed.

September 27, 2017
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(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No