

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No. 7435 of 2013

Date of Decision: September 20, 2017

Prithi Singh

..Petitioner

Versus

Hardev Singh and others

..Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present:- Mr. D.K. Bhatti, Advocate
for the petitioner.

Mr. Rishi Kaushal, Advocate
for respondents no.3 & 4.

REKHA MITTAL, J.(oral)

The present petition directs challenge against order dated 02.09.2013 passed by the District Judge, SBS Nagar, whereby the petitioner was directed to make good deficiency in Court fee.

Counsel for the petitioner has submitted that the petitioner filed a suit for specific performance of agreement to sell dated 25.05.2004 and in the alternative for recovery of Rs.20,00,000/-. The suit was instituted in May 2005 and the petitioner valued the suit for the purpose of Court fee and jurisdiction qua the relief of specific performance at Rs.3,19,96,125/- upon which Court fee of Rs.3,13,668/- was affixed and in

respect of alternative relief for recovery of Rs.20,00,000/-, Court fee of Rs.19,912/- was affixed. The suit filed by the petitioner/plaintiff came to be dismissed by the trial Court on 01.05.2013. The judgment and decree passed by the trial Court was challenged in appeal before the Court of District Judge, SBS Nagar in September 2013. The petitioner affixed Court fee on the basis of valuation of the suit but the same is reported to be deficient by Reader of the Court and accordingly the petitioner was directed to make up the deficiency. It has been argued with vehemence that the amendment made in the Court Fee Act, 2009 w.e.f. 07.01.2010 is neither retrospective in nature nor can be applicable to the appeals arising out of the suits instituted prior to the Amending Act, 2009 came into force w.e.f. 07.01.2010, therefore, the petitioner is not liable to pay Court fee more than what was affixed on the appeal.

Counsel for respondents no.3 & 4, on the contrary has submitted that since the issue with regard to payment of Court fee needs to be decided by the Court in appeal, by taking into consideration the contentions sought to be raised by the petitioner in the present petition, the matter may be remitted to the Court in appeal to decide the question of payment of Court fee, after hearing the parties, in accordance with law.

Counsel for the petitioner, in view of submission made by counsel for respondents no.3 & 4, has got no objection if necessary directions are issued to the appellate Court to decide the question of payment of Court fee by passing a speaking order, in accordance with law.

In view of the above, the present petition stands disposed of.

The Court in appeal is directed to decide the issue of court fee by passing a speaking order, after hearing the parties, in accordance with law. However, any party aggrieved by the order of appellate Court shall be entitled to seek remedy under law.

(REKHA MITTAL)
JUDGE

September 20, 2017
Sunil

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