

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

Civil Revision No.8028 of 2014 (O&M)
Date of decision: March 08, 2017

Virender Singh

...Appellant

Versus

Shiv Narain & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Dinesh Arora, Advocate for the petitioner.
Mr. Deepak Girotra, Advocate for respondent No.1.

Rajan Gupta, J. (oral)

This order shall dispose of three revision petitions i.e. CR-8028-2014, 8029-2014 & 8031-2014, preferred by petitioner Virender Singh against the order dated 4.11.2014, passed by Additional District Judge, Rohtak, whereby he declined the prayer of the petitioner for rejecting appeal preferred by the respondents on the ground that deficient court fee was affixed by the respondents.

It has been urged before the court that a suit for specific performance and possession was decreed by the court in favour of the plaintiff/petitioner. At the time of filing the suit, plaintiff paid *ad valorem* court fee on the subject matter of the suit. Defendants chose to prefer three separate appeals. At the time of filing the appeal, they apportioned the total amount of Rs.7,50,000/- into three separate parts and affixed court fee accordingly. According to petitioner, this was not permissible as every appellant had to pay court fee according to total valuation of the subject matter of the suit and not according to individual share.

Prayer has been resisted by the counsel appearing for respondent No.1 on the ground that all the three appeals were consolidated, thus, *ad valorem* court fee on total value of the suit had been affixed. Besides, matter of payment of court fee is upto the court to decide. Plaintiff had no right to raise such an issue. He has relied upon a judgment reported as *Jagdish Vs. Raj Kumar, 2015 (1) Law Herald 728*.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

A perusal of the impugned order shows that issues raised by the parties have not been clearly dealt with. Plea raised herein, has been rejected merely on the ground that all appeals had been consolidated, thus, requisite court fee had been paid. Under the circumstances, I find that the order needs to be set-aside and remitted to the same court for decision afresh after hearing the parties. Counsel for the parties shall be entitled to cite the judgments, on which they seek to place reliance. Thus, the order dated 4.11.2014 is hereby set-aside. Matter is remanded to the same court for decision afresh. In case the parties pray before the lower appellate court that this issue may be decided along with the main appeal, it shall be entitled to do so.

All the three revision petitions are allowed in the above terms.

(RAJAN GUPTA)
JUDGE

March 08, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No