

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

CR No.1125 of 2017
Date of decision : 26.03.2018

Anil Kumar

...Petitioner

Versus

Mahender Kaur and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Pritam Singh Saini, Advocate for the petitioner.

Mr. Abhishek Singh, Advocate
for respondent Nos.1, 6, 8 and 9.

ANIL KSHETARPAL, J. (ORAL)

The plaintiff-petitioner is in the revision petition against the order passed by the learned trial Court directing the plaintiff to affix the ad valorem Court fees on the amount of damages claimed i.e. ₹1,80,00,000/-.

As per the pleaded case of the plaintiff, there was an agreement to sell between the parties for the sale of land. It is further the allegation of the plaintiff that he came to know that the defendants have played fraud with him. Hence, the plaintiff filed a suit for recovery of ₹1,65,00,000/- paid to the defendants and also ₹1,80,00,000/- as damages. It is not disputed that on a sum of ₹1,65,00,000/-, requisite Court fee has been affixed. On the damages, the plaintiff pleaded that the tentative Court fee of ₹1,000/- is being paid and the plaintiff undertakes to pay the remaining amount, if any,

as directed by the Hon'ble Court while deciding the suit.

By way of the impugned order, the Court has ordered the plaintiff to affix the ad valorem Court fee on the amount of damages claimed i.e. ₹1,80,00,000/- also.

This Court has heard the learned counsel for the parties at length and with their able assistance gone through the paper book.

Learned counsel for the petitioner has vehemently contended that the amount of damages to be awarded by the Court are uncertain. Hence, the plaintiff has paid tentative Court fee at ₹1,000/- while undertaking to pay the remaining amount. He has relied upon the judgment passed by this Court in *2005(1) PLR 650, State of Punjab and others Vs. Jagdip Singh Chowhan*, and other judgments laying down on the similar lines.

On the other hand, learned counsel for the respondents has relied upon the judgments passed by the Division Bench of this Court reported as *AIR 1956 Punjab 214, M.S. Chemical Industries Ltd. Vs. The Hindustan Commercial Bank Ltd.* and *2015(3) PLR 580, Sunita Rani and another Vs. State of Punjab and others*.

This Court has gone through the judgments passed by this Court as relied upon by the learned counsel for the parties. It is not a case where no Court fee has been affixed. The deficiency, if any, can certainly be made good by the parties at the time of the final decision of the case. The amount of the damages as claimed by the plaintiff is not final. It would always depend upon the evidence to be led by the parties. In the present case, the plaintiff has affixed the Court fee on the amount of ₹1,65,00,000/-.

He has also paid ₹1,000/- on account of damages claimed.

In the considered opinion of this Court, the deficiency in the Court fees can always be allowed to be made good at any stage.

In view of the aforesaid, rather than adjudicating upon as what would be the amount of the Court fee, the trial Court is directed to frame an issue on the quantum of court fee payable and allow the parties to lead evidence.

In view thereof, the order under challenge is set aside. The trial Court would proceed with the case.

Revision petition is allowed.

26.03.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No