

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.2893 of 2016

Date of Decision.16.02.2018

Santosh Rani

.....Petitioner

Vs

Pushap Kumar and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajan Bansal, Advocate
for the petitioner.

Mr. Arun Bansal, Advocate
for the respondent No.1 and 2.

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AMIT RAWAL J.(ORAL)

The present revision petition is directed against the order dated 03.02.2016 whereby the application of the petitioner-defendant regarding deficiency in court fee as paid by the plaintiff in pursuance of the order of the trial Court dated 11.03.2015, has been dismissed.

Mr. Rajan Bansal, learned counsel appearing on behalf of the petitioner submits that court fee on the market value of the property in case of suit seeking separate possession by way of partition claiming 3/4th share of double storey building situated at Court Road, Bathinda was required to be paid but the plaintiffs had paid court fee as per the value reflected in the sale deed of the year 1985, which is not correct appreciation of law. In support of his contention, he relies upon the judgment of this Court in **Tarandeep Singh Vs. Subash Chander 2017(1) RCR (Civil) 805; Kailash Devi Vs. D.A.V. Senior Secondary School 2013(4) PLR 299; Raj Kumar Vs. Anil Mahajan and others 2014(4) Law Herald 3183; Bachhitar Singh and others Vs. Gurmail Singh and others 2015(5) Law Herald 4463** and

Kuldeep Kaur Vs. Smt. Surjit Kaur and others 2015(5) RCR (Civil) 621.

Per contra, Mr. Arun Bansal, learned counsel appearing on behalf of the respondents-plaintiffs submits that his client are not averse of filing the court fee but it will be subject to the decision of the Court and the court fee can always be paid at any time before final adjudication of the suit.

I have heard learned counsel for the parties and appraised the paper book. Concededly, as per the order dated 11.03.2015, the respondents-plaintiffs were directed to pay ad valorem court fee to the extent of 3/4th share in scheduled property, which has been paid but on the value of the property as per sale deed of the year 1985 whereas as per clause (v) of Section 7 of the Court Fee Act, it has to be paid on the market value. The Court below has left this question open, in essence, the application filed by the defendant is kept alive and it will be seen after the parties lead evidence with regard to issues including the valuation. This fact will be examined by the Court before the adjudication of the final suit. There is no dispute to the ratio decidendi referred supra by the counsel for the petitioner.

With aforementioned observations, the revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

February 16, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No