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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5082-2010 (O&M)
Date of decision : 1.3.2018

Hindu Kanya Mahavidyalya Jind Petitioner

Versus

The Red Cross Society, Jind. Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Rishab Lohan, Advocate
for Mr. R.N.Lohan, Advocate for the petitioner.

Mr. R.S. Kundu, Advocate for the respondent.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 16.7.2010, (Annexure P-4) passed by learned Additional Civil Judge, (Senior Division), Jind, vide which while deciding the application under Order VII Rule 11 of the Code of Civil Procedure, 1908, (for short 'the CPC'), it was decided that issue regarding Order II Rule 2 of the CPC and on the point of *res judicata* shall be decided after recording the evidence, being mixed question of facts and law. However, regarding the Court fee it was decided that advalorem Court fee is payable on the market value of the land measuring 6615 square yards. Market value would mean Collector rate.

This Court has been informed that civil suit has since been decided and appeal is pending.

In this case, the question of payment of advalorem Court fee is a mixed question of fact and law and an issue was framed regarding the

Court fee.

Learned trial Court has taken a view and appeal against the same is pending. Therefore, in the circumstances, I deem it appropriate that matter regarding payment of advalorem Court fee should be decided by the lower Appellate Court and in case it is found that advalorem Court fee is payable, an appropriate order shall be passed.

Consequently impugned order dated 16.7.2010 (Annexure P-4), passed by learned Civil Judge (Senior Division), Jind is set aside and the Appellate Court is directed not to be influenced by the order passed by this Court or by the order passed by learned Additional Civil Judge (Senior Division), Jind while deciding the question of payment of advalorem Court fee.

Disposed of with above directions.

Since the main petition has been disposed of, the miscellaneous application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

1.3.2018
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Whether speaking / reasoned	Yes
Whether Reportable:	No