

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

243

CR No.5248 of 2015 (O&M)

Date of decision: 22.02.2018

Annpreet Kaur Khera

..... Petitioner

Versus

Akhtiar Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Prateek Pandit, Advocate
for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Although, repeated notices have been issued to the respondents through foreign registered AD, however, personal service of the respondents could not be effected.

As per the office report dated 11.09.2017, registered AD notices sent on 27.09.2016 have not been received back either served or otherwise. More than 30 days has elapsed. Hence, due service is presumed.

Even otherwise, the dispute involved in the present revision petition is very limited which can be decided even in absence of the respondents.

Under Order 7 Rule 11, CPC, learned Court has directed the plaintiff to pay ad valorem Court fee on the consideration of the sale deeds dated 05.01.2011 and 01.02.2011 after recording a finding that the plaintiff is a non-executant. The Court has held that although the plaintiff being non-executant is not liable to pay Court fee, however, since relief of joint

possession has been prayed for, therefore, ad valorem Court fee is required to be affixed on the value under the sale deeds.

In the considered opinion of this Court, such direction issued by the learned trial Court is wholly erroneous. The dispute in the present case is with regard to the agriculture land measuring 51 kanals and 6 marlas and some construction over 18 marlas of land in the shape of house and 7 shops constructed separately. Learned counsel submits that as per the State amendment in Section 7 (IV) in case of agriculture land, the Court fee is payable on the basis of 10 time of the revenue payable and not on the value of the property or the sale deed. However, he admits that the Court fee shall be payable on the value of the property described under heading 'B' and 'C' in the plaint i.e. house and 7 shops.

In view thereof, the order under challenge is modified. The plaintiff shall affix Court fee as per the State amendment on the agriculture land for the relief of possession and further pay Court fee on the value of the property under heading 'B' and 'C'.

Revision petition is disposed of.

22.02.2018
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No