

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

Civil Revision No.6027 of 2014 (O&M)

Date of decision: May 17, 2018

Mohinder Singh

...Petitioner

Versus

Sita Ram and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Jagdish Manchanda, Advocate
for the petitioner.

Mr.Akash Singla, Advocate
for respondent No.1.

None for respondents No.2 and 3.

INDERJIT SINGH, J.

Petitioner Mohinder Singh has filed this revision petition against Sita Ram and other respondents under Article 227 of the Constitution of India for quashing the order dated 20.08.2014 passed by learned Civil Judge (Junior Division), Kaithal, vide which the application filed by the defendants-respondents was allowed.

Notice of motion was issued. Learned counsel for respondent No.1 appeared and contested the petition. None appeared on behalf of respondents No.2 and 3 despite service.

I have heard learned counsel for the parties and have gone through the record.

From the record, I find that Mohinder Singh plaintiff, filed a suit against Sita Ram and other defendants for rendition of accounts and mandatory injunction or in alternate, for possession. During the pendency of the suit, an application under Order 7 Rule 11 CPC was filed by the defendants-applicants for giving direction to the plaintiff to affix the Court fee on the market value of suit property. The defendants-applicants stated that plaintiff filed the suit for rendition of accounts and mandatory injunction or in alternate for possession. Suit property is a Hotel being run by defendant no.1 as Manager. Further, suit property has been given on lease to Mahabir Singh on monthly lease to the tune of ₹27,000/- p.m. as per agreement dated 30.03.2008. It is further stated that plaintiff has sought the relief of possession of the suit property, market value of which is ₹2 crore but plaintiff has not affixed the court fee either on the value of suit property at the rate of monthly lease amount calculated for about five years as claimed. With these submissions learned counsel for the applicants-defendants submitted that plaintiff may kindly be directed to make good the deficiency of court fee.

On the other hand, the plaintiff opposed the present application by stating that matter of court fee is between court and the plaintiff and the defendants have no locus-standi to raise this issue without filing written statement. Defendants failed to file written statement within 30 days from getting summoned and filed the application just to delay the proceedings of present case. It is also denied by plaintiff that value of suit property is ₹2 Crore. Suit property is constructed in a plot of land measuring 55 sq. yards only. It is further submitted that in the suit for accounts or for recovery of

final value of suit shall be ascertained by court after taking the evidence of the parties.

Learned Civil Judge (Jr. Divn.), Kaithal, vide impugned order dated 20.08.2014, accepted the application and directed the plaintiff to pay *ad valorem* court fee on the market value of the suit property within 20 days.

Aggrieved from the above-said order, present revision petition has been filed.

From the record, I find that impugned order passed by learned Court below, is correct and as per law. The plaintiff filed the suit for rendition of accounts and mandatory injunction or in the alternative, for possession. The relief claimed by the plaintiff is for rendition of accounts by directing defendants No.1 and 2 to render the accounts of Hotel being run on the suit property since 01.04.2009 upto the date and to direct defendants No.1 and 2 to pay the amount found to be due against them to the plaintiff, after rendition of the accounts and further a decree for mandatory injunction/possession by directing defendants No.1 to 3 to hand over the vacant possession and keys along with entire record etc.

From the relief sought by the plaintiff-petitioner, it is clear that he is asking for possession of the property as well as rendition of accounts. The argument of learned counsel for the petitioner that defendants have no locus standi, has no merit. The defendants can file application under Order 7 Rule 11 CPC for rejection of plaint if the Court fee has not been paid. Secondly, from the pleadings of the plaintiff, it is clear that plaintiff is asking for possession of the Hotel, which is in possession of the defendants.

Therefore, plaintiff is to affix *ad valorem* Court fee on the market value.

Nothing has been shown to prove that impugned order is illegal or perverse.

Keeping in view above discussion, I find that no illegality has been committed by learned Court below while passing the impugned order. The impugned order dated 20.08.2014 passed by learned Civil Judge (Jr. Divn.), Kaithal, is correct, as per law and does not require any interference from this Court.

Therefore, finding no merit in the present petition, the same is dismissed.

It is also brought to the notice of this Court that civil suit has already been decided. Learned Court below is directed to recover the Court fee from the present petitioner-plaintiff, as per law.

May 17, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No