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

CR No. 6023 of 2018

Date of Decision: 11.09.2018

State Bank of India and others

....Petitioners

Vs

Subhash Chander Jain

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Keshav Kataria, Advocate,
for the petitioners.

RAJ MOHAN SINGH, J.(Oral)

1. Petitioners have assailed the order dated 15.05.2018 passed by Civil Judge (Senior Division), Ludhiana whereby application under Order 7 Rule 11 CPC was dismissed.

2. The application was filed on the ground that a specific amount of compensation was claimed by the plaintiff and requisite Court fee on the said sum was not affixed.

3. The claim of the defendants-petitioners was that in the event of claiming damages, the plaintiff was required to pay ad-valorem Court fee.

4. In **Saleem Vs. Usman Gani and another, 2015(3) RCR (Civil) 650**, it was held that in a suit for damages on account of malicious prosecution, the amount claimed was only

tentative amount on which court fee was to be assessed with an undertaking to pay the remaining court fee as and when directed by the Court. Such an undertaking was held to be a valid undertaking and the plaint cannot be rejected on account of such deficiency.

5. In **Shiv Kumar Sharma Vs. Santosh Kumari, 2007 (4) RCR (Civil) 515**, the Hon'ble Apex Court has held that even in case of specific amount claimed by the plaintiff, the determination would be at a subsequent stage on the basis of quality of evidence to be led by the parties. Though the damages cannot be granted without payment of requisite court fee but in case damages are required to be calculated, a fixed court fee is to be paid, but on the quantum determined by the Court and the balance court fee can be paid at the time when final decree is drawn.

6. The view of **Hem Raj Vs. Harchet Singh, 1993 Civil Court Cases 48**, was endorsed wherein it was held that issue of court fee cannot be treated to be a preliminary issue. In a suit for damages and compensation, the tentative valuation of the suit for the purposes of court fee cannot be disputed.

7. Relying upon the aforesaid precedents, this Court in Civil Revision No.5893 of 2016 titled '*Amandeep Sidhu vs M/s Ultratech Cement Limited and others*' decided on 05.09.2016

has also taken the aforesaid view that a contingent decree can be passed. In the event of finding deficiency in Court fee, a notice can be issued to the plaintiff to make good the required Court fee. In the event of his failure to do the same, the suit can be dismissed on that account.

8. The view expressed by this Court in **Amandeep Sidhu's case (supra)** was upheld by the Hon'ble Apex Court in SLP (C) No.3500 of 2017.

9. In view of aforesaid, there is no error of jurisdiction in the impugned order.

10. This revision petition is accordingly, dismissed.

11.09.2018
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No