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

**Civil Revision No.6759 of 2018
Date of Decision: 05.10.2018**

Kashmir Singh

.....Petitioner

Vs

Mandeep Kaur and others

....Respondents

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

Present: Mr. Amardeep Singh Gill, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. This revision petition has been preferred against the order dated 24.07.2018 passed by the Civil Judge (Jr. Divn.) Jalandhar, vide which the application filed by the petitioner under Order 7 Rule 11 read with Section 151 CPC for rejection of the plaint was dismissed.

[2]. Plaintiffs/respondents no.1 and 2 filed a suit for recovery of un-liquidated damages to the tune of Rs.10 lakhs.

[3]. An application was filed by the defendant/petitioner on the ground that since the plaintiffs have claimed recovery of damages to the tune of Rs.10 lakhs and only the court fee of Rs.50 was affixed, therefore, the plaint be rejected.

[4]. The application was contested by the plaintiffs/

respondents No.1 and 2.

[5]. The trial Court vide order dated 24.07.2018 dismissed the application on the ground that a contingent decree could be passed for the damages. It was observed that the valuation put forth by the plaintiffs at that stage was tentative in nature and they could affix the court fee at the time of final adjudication of the case.

[6]. Learned counsel for the petitioner placed reliance upon **Ranjit Kaur and others vs. Punjab State Electricity Board and another, 2007(1) R.C.R. (Civil) 686;** **R.S. Malik vs. Sh. Krishan Mohan, IAS & others, 2010(1) R.C.R. (Civil) 76;** **Manjeet Singh vs. Beant Sharma, 2012(44) R.C.R. (Civil) 118;** **Sunita Rani and another vs. State of Punjab and others, 2015(30) R.C.R. (Civil) 309;** **S. Ajit Singh Kohar vs. Shashi Kant, 2014(74) R.C.R. (Civil) 318;** **Subhash Chander Goel vs. Harvind Sagar, 2003 AIR (Punjab) 248** and **State of Punjab and others vs. Jagdip Singh Chowhan, 2005(1) R.C.R. (Civil) 54.**

[7]. I have considered the above cited precedents relied by learned counsel for the petitioner.

[8]. In **R.S. Malik's** case (supra), the suit was for rendition of account and specific/exact money was claimed. The amount was capable of being quantified and was ascertainable. The

principles of valuation of suit for recovery of liquidated claims will not apply in the said case, therefore, the aforesaid case cannot be treated to be on the proposition involved in the present case. Whereas **Manjeet Singh** and **S. Ajit Singh Kohar**'s cases (supra) are applicable only in case of liquidated amount of damages, where the amount is ascertainable. *Ad valorem* court fee is payable when amount is quantified by the Court. When the amount is not capable of being ascertained, only tentative court fee is required to be affixed. The ratio of **Subhash Chander Goel** and **State of Punjab and others vs. Jagdipt Singh Chowhan**'s case (supra) are to the same effect.

[9]. The ratio of **Ranjit Kaur's** case (supra) came to be interpreted by this Court in **CR No.5893 of 2015** titled '**Amandeep Sidhu vs. M/s Ultratech Cement Limited and others**', decided on 15.09.2016. The said judgment was rendered by this Court after relying upon **Saleem vs. Usman Gani and another, 2015(3) R.C.R. (Civil) 650**; **Shiv Kumar Sharma vs. Santosh Kumari, 2007(4) R.C.R. (Civil) 515**; **Hem Raj vs. Harchet Singh, 1993 CivCC 48**; **Sunita Rani and another vs. State of Punjab and others, 2015(3) PLR 580** and **CR No.4713 of 2016** titled '**Rajender Parsad and others vs. Vinod Kumar and others**', decided on 26.07.2016 and it was held that even in case of specific amount claimed by the

plaintiff, the determination would be at a subsequent stage on the basis of evidence to be led by the parties. Damages cannot be claimed without payment of court fee and in such eventuality, a contingent decree can be passed. In case damages are required to be calculated, a fixed court fee is to be affixed, but on the quantum determined by the Court after leading of evidence. Plaintiff can be asked to affix the balance court fee at the time of passing of decree. In a suit for damages on account of malicious prosecution, the amount claimed was only tentative amount on which fixed court fee is to be assessed with an undertaking to pay the remaining court fee as and when directed by the Court. Such an undertaking is a valid undertaking and the plaint cannot be rejected on account of deficiency in court fee. The 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 purpose of court fee cannot be disputed. Recovery of damages on account of injuries suffered by the plaintiff will be subject matter of quantification of claim by the Court after assessing evidence by the parties.

[10]. In nutshell it can be appreciated that if the Court is unable to say what the correct valuation of relief is involved, it cannot require the plaintiff to correct the valuation that has been

made by him. The Court has no alternative, but to accept valuation done by the plaintiff at that stage. In such type of circumstances, a liberty has to be given to the plaintiff to value his claim for the purposes of the court fee and in reality, it is very difficult to value the claim with any precision or in definite manner. In case of amount of compensation, there is no objective standard available in determining the amount for which plaintiff has to value the relief claimed by him. In the nature of things, the valuation put by the plaintiff is tentative and in view of settled position of law, the same cannot be disputed. The view expressed by this Court in **Amandeep Sidhu's** case (supra) has been upheld by the Hon'ble Apex Court in **SLP(C) No.3500 of 2017.**

[11]. For the reasons recorded hereinabove, it can be concluded that in a suit for damages, even if fixed amount is claimed i.e. subject to the final assessment to be made by the Court, for that a contingent decree can be passed, requiring the plaintiff to make good the deficiency in court fee at a later stage. Consequently, no error of jurisdiction is noticed in the impugned order. This revision petition is accordingly dismissed.

October 05, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No