

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

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**CR-7624-2016
Date of Decision : 11.05.2018**

Shubh Kumar Saini

..... petitioner

Versus

Abdul Rashid @ Khandu

..... Respondent

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present :- Mr. Sunny K. Singla, Advocate
for the petitioner.

Mr. Parvez Akhtar, Advocate for
Mr. Mohd. Yousaf, Advocate
for the respondent.

Amit Rawal, J. (Oral)

The present civil revision petition has been filed under Article 227 of the Constitution of India praying for setting aside the impugned order dated 17.10.2016 passed by Civil Judge (Jr. Division), Malerkotla.

This Court, while issuing notice of motion, has directed the petitioner to deposit the court fee of Rs. 24,600/- in the trial Court on a sum of Rs. 18 Lakh for seeking recovery of the JCB Machine, subject to outcome of this revision petition.

Learned counsel for the petitioner submitted that court fee of Rs. 24,600/- has been deposited as directed by this Court.

Learned counsel for the respondent disputed the above mentioned fact.

I have heard learned counsel for the parties and have perused the record.

The order dated 11.11.2016 passed by this Court reads as under:

“Counsel for the petitioner contends that in view of the provision of Order 7 Rule 2 of the Code of Civil Procedure, in a suit for recovery of moveable property, the plaintiff is required to state its valuation after exercise of reasonable diligence. It is further submitted that as the JCB model 2009 is in possession of the defendants since its purchase. The petitioner/plaintiff even does not know its present status and condition. It is further submitted that the trial court has directed the petitioner to pay court fee by taking into consideration its value at Rs. 18 lakhs, on the basis of its value at the time of purchase.

Perusal of the impugned order does not indicate as to on what amount, the court has directed the petitioner to pay court fee within a period of one month. However, in view of the submissions made by counsel that JCB machine was of the value of Rs. 18 lakhs in the year 2009 and then allowing benefit of depreciation for the past seven years, the petitioner is directed to affix court fee of Rs. 24,600/- by considering tentative market value at present to be Rs. 9 lakhs subject to outcome of the present petition.

Notice of motion for 10.2.2017.

In the meanwhile, if the petitioner deposits court fee of Rs. 24,600/- in the trial court within a period of 15 days, the trial court shall not press for payment of more court fee.

Notice to the respondent would be issued only after the petitioner deposits the court fee and informs Registry of the Court in this regard.”

This Court is of the view that this would be a subject matter for

the trial Court to decide as to whether the plaintiff is required to pay court fee and in case it is so, the same can be decided at the time of decision of suit.

In view of above, this revision petition is disposed of.

11.05.2018
Waseem Ansari

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No