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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7983-2016

Date of decision : 08.02.2018

Sudarshan Kumar

... Petitioner(s)

Versus

Raghubir Singh and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Shilak Ram Hooda, Advocate
for the petitioner.

Mr. Sanjeev Pandit, Advocate
for respondents No.1 to 5.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the impugned order dated 24.10.2016 (Annexure P-8), whereby an application under Order 7 Rule 11 of the Code of Civil Procedure seeking dismissal of the plaint on two accounts; i) for non-payment of court fees; and ii) that lease deed of the year 1984 assailed in the suit filed on 03.05.2016 *ex facie* barred by law of limitation, has been dismissed.

Learned counsel for the petitioner submits that the suit in the year 2016 could not have been filed for assailing the lease deed of the year 1984, therefore, *ex facie* barred by law of limitation. *Ad valorem* court fee with regard to the land, for which, the possession has been sought, has to be paid. This fact has not been noticed by the Court below, thus, there is abdication, much less, illegality and perversity.

Mr. Sanjiv Pandit, learned counsel appearing on behalf of the respondent(s)-plaintiff(s) submits that the question of limitation is a mixed question of facts and law, which can always be determined, even if the issues are not framed, as per the provisions of Section 3 of the Limitation Act. As regards the *ad valorem* court fee, he on instructions from his client, submits that he will pay the Court fee as per the value of the land, for which, the possession has been sought within two months from the date of the receipt of the certified copy of this order.

Keeping in view the aforementioned facts and circumstances, the issue of limitation is kept open with liberty to the petitioner to raise all pleas in the written statement and as far as the payment of Court fee is concerned, two months' time from the date of the receipt of the certified copy of this order is granted, failing which, the petitioner shall be at liberty to take recourse to the remedies in accordance with law.

By upholding the impugned order, under challenge, the present revision petition stands disposed of.

08.02.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned Yes/ No

✓

Whether Reportable Yes/ No