

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

**C.R. No.7736 of 2017 (O&M)
Date of Decision: January 10, 2018**

Seth Ram Richa Mal Charitable Trust and another ...Petitioners

Versus

Ram Kishan ...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

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

Mr. Saurabh Garg, Advocate
for the respondent.

FATEH DEEP SINGH, J.

The present petitioner/Seth Ram Richa Mal Charitable Trust, Fatehpur and another, the then plaintiffs, filed against the defendant, now respondent suit for possession by way of ejectment from one shop detailed in the plaint situated in village Fatehpur, Tehsil Pundri, District Kaithal. The precise grounds were that plaintiffs were in need of suit property for personal requirement and they did not want the defendant to continue any more as tenant. It was during the course of proceedings before the Court below an application under Order VII Rule XI CPC was moved by the defendant/applicant for rejection of the plaint on the grounds of insufficient court fees having been affixed, therefore, suit being under valued. It is through the impugned orders dated 19.07.2017 the Court of learned Civil Judge, Junior Division, Kaithal has held that the plaintiffs have not affixed the appropriate court fees and that is how the plaintiffs

have knocked at the doors of this Court by invoking the provisions of Section 115 of the Code of Civil Procedure.

Heard, learned counsel for the parties. Learned counsel for the two sides are not at dispute as to the relationship of landlord and tenant and ground for which the ejectment of the tenant has been sought. Though, a close look at the copy of the plaint Annexure P/1 spells out the poor manner in which the suit and the pleadings have been carried out, how and by what means the plaintiffs have valued their suit and by what manner the court fees has been affixed. Learned counsel for the parties do not dispute that the provisions of Section 7(XI)(cc) of the Court Fees Act, 1870 by virtue of which a suit for specific performance for the recovery of immovable property from a tenant, the amount of the rent of the immovable property to which the suit refers, payable for the year next before the date of presenting the plaint is the mode of valuation. The plaintiffs are seeking ejectment of the defendant from a shop which is located in a place where the Haryana Urban (Control of Rent and Eviction) Act, 1973 is inapplicable and it is the case of the plaintiffs that the rent is Rs.2500/- per month. In the light of the well settled law, at this juncture, it is the plaint which is to be gone into and not what the defendant has to say in his reply and, therefore, by that analogy the plaintiffs are supposed to value their suit according to the amount of rent of this immovable property which is a shop payable for the year next before the date of presenting the plaint.

In the light of the concurrence shown by the learned counsel for the two sides as the learned counsel for the respondent has not offered much resistance to this, the impugned orders are modified to this

effect holding that the plaintiffs are supposed to value their suit according to the amount of rent of this immovable property which is a shop payable for the year next before the date of presenting the plaint.

The present revision petition stands disposed off in those terms.

(FATEH DEEP SINGH)
JUDGE

January 10, 2018
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No