

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

CR No.7912 of 2014
Date of decision : 20.03.2018

Pawan Kumar and another

...Petitioners

Versus

Suresh Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. M.K. Garg, Advocate for the petitioners.

Mr. Achin Gupta, Advocate for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

The defendants-petitioners are in the revision petition against the order dated 06.08.2014 directing the plaintiff to deposit the Court fee while taking the value of the property as per the Collector rate and framed an issue with regard to the market value of the property enabling parties to lead evidence.

The learned trial Court further observed that if ultimately the market value of the property is found higher than the Collector rate, the plaintiff shall have to affix the Court fee.

In the considered opinion of this Court, first of all the present revision petition is not maintainable in view of the judgment passed by the Hon'ble Supreme Court in *Rathnavarmaraja Vs. Smt. Vimla, AIR 1961 SC 1299*, wherein it has been held that the defendant has only a right to object

before the trial Court and has no right to file any appeal or revision on the question of the Court fee.

Secondly, examining the case on merits, the learned trial Court rather than stalling the trial of the case, has ordered the plaintiff to fix the Court fee based upon the value as determined by the Deputy Commissioner while directing the plaintiff to make up the deficiency, if any, whenever the market value is ultimately determined by the Court in this suit.

In the considered opinion of this Court, the trial Court has correctly passed an order. The question of ad valorem Court fee should not delay the trial of the suit, which was filed in the year 2010.

Keeping in view the aforesaid facts, the revision petition is dismissed. However, the learned trial Court is requested to make a sincere endeavour to finally adjudicate the suit within a period of one year from the date of receipt of certified copy of the order.

20.03.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No