

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.8853 of 2014
Date of Decision: April 06, 2018

Surendra Singh & others

...Petitioners

Versus

Susheela Verma & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr.Atul Gaur, Advocate for
Mr.Sumeet Goel, Advocate,
for the petitioners.

Mr.Ravi Malik, Advocate for
Mr.S.K.Panwar, Advocate,
for the respondents.

AMIT RAWAL, J. (Oral)

Present revision is directed against the impugned order dated 23.9.2014, whereby the application moved by the petitioner-defendants under Order 7 Rule 11 CPC calling upon the respondent-plaintiffs to affix full court fees as per the market value of the property and as well as on mesne profits, has been dismissed.

Mr.Atul Gaur Advocate for Mr.Sumeet Goel, learned counsel for the petitioner-defendants submitted that the respondent-plaintiffs had claimed a decree for possession in respect of suit property measuring 420 sq.meters in DLF-III, Gurgaon and as per the provisions of Section 7(v) of the Court Fees Act, the court fees on the market value of the property was required to be paid, whereas the respondent-plaintiffs, from the averments made in Para 18 of the plaint, assessed the value of the property as

₹75,20,000/-, but paid the court fees of ₹2,07,300/-. He submitted that there is a categorical averment in Para 6 of the plaint that that the plaintiffs used to pay some vendors and architects directly for spending money on the construction, which had been to the tune of ₹1.25 crores and, therefore, the court fees was required to be paid, including the construction as per the market value.

Mr.Ravi Malik Advocate for Mr.S.K.Panwar, learned counsel for the respondent-plaintiffs submitted that the findings of the Court are perfectly legal and justified. It is yet to be determined as to what is the market value of the property, for, the Court can always, on the basis of the evidence brought on record, form an opinion with regard to the value of the property and call upon the plaintiffs to pay the court fees on the market value, but not in the manner and mode as adopted. It is an attempt to adopting delaying tactics. The payment of the court fee essentially is a dispute between the plaintiffs and the Court and the defendants have no right and, thus, urged this Court for affirming the order under challenge.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of the learned counsel for the petitioners.

Para 18 of the plaint reads as under:-

“That the value of the suit for the purposes of jurisdiction and court fee for relief of declaration with consequential relief of permanent injunction is fixed at Rs.200/- on which court fee of Rs.25/- is payable. The value of the suit for the purposes of court fee and jurisdiction for relief of possession is fixed at Rs.75,20,000/- being the value of the suit property and court fee of Rs.2,07,300/- is payable thereupon. The value of the suit for the purposes of jurisdiction and court fee for recovery of

mesne profitis/compensation for use and occupation with effect from January, 2007 till the date of filing of suit is Rs.20,00,000/- and court fee of Rs.1,03,800/- is payable thereupon. Hence total court fee of Rs.3,11,125/- has been affixed on the plaint.”

The court fees of ₹2,07,300/- and ₹1,03,800/- on the mesne profits, totalling ₹3,11,125/- has been paid. There is no dispute that the possession has been sought. For the purpose of adjudication with regard to rejection of the plaint, only the averments are to be seen. No doubt, Section 7(v) (iii) of the Court Fees Act provides that the court fees is to be paid on the market value, but it is yet to be proved the market value of the property. It would be in the domain of the petitioner-defendants to bring on record the material for the purpose of decision on the adjudication of the dispute with regard to the court fees and as and when the court opines that the court fee either correct or otherwise, call upon the plaintiffs to pay the court fees in case of succession of the suit by passing a conditional decree, but not in the manner and mode as adopted.

For the reasons stated above, I do not intend to differ with the findings of the trial Court. The order cannot be said to be without jurisdiction. No ground for interference is made out.

Revision petition stands dismissed.

April 06, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No