

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.8851 of 2017(O&M)

Date of Decision: 14.02.2018

Krishan Kumar

... Petitioner

Versus

Naresh & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Ajay Vijarania, Advocate,
for the petitioner.

RAMENDRA JAIN, J.(Oral)

Through the instant revision petition filed under Article 227 of the Constitution of India, challenge has been laid to the order dated 15.11.2017 (Annexure P-4) of the trial Court directing the petitioner-plaintiff to affix ad valorem Court fee on his suit as per market value.

In nutshell, the petitioner-plaintiff filed a suit for possession of gair mumkin plot measuring 9 marlas detailed in head note of the plaint situated at Village Tosham, District Bhiwani, wherein an application under Order VII Rule 11 CPC moved by the respondents-defendant for rejection of plaint for non-affixation of ad valorem Court fee.

After hearing both the sides, the trial Court vide impugned order dated 15.11.2017 (Annexure P-4) directed the petitioner-plaintiff to affix ad valorem Court fee and afforded an opportunity to him to make good the deficiency.

Learned counsel for the petitioner referring to Section 7 of the Court Fee Act contended that the trial Court has erred in directing the petitioner to affix ad valorem Court fee, because according to Sub-Clause 7(iii) of Sub Section 5 of Section 7 of the Court Fee Act, no Court fee was

liable to be paid by the petitioner-plaintiff for a suit for possession of a plot situated in the abadi deh of the village. At the most, trial Court could ask the petitioner-plaintiff to affix court fee equal to ten times of the revenue over his suit.

Having given thoughtful consideration to the submissions made by learned counsel for the petitioner, this Court finds that the same are totally misconceived and not tenable inasmuch as Section 7 of the Court Fees Act, 1870, deals with the agricultural lands or otherwise subject to payment of revenue to the Government, houses and gardens irrespective of the fact as to whether they are subject to land revenue or partially exempted from it or a fixed payment is made in lieu of revenue or are completely exempted from revenue, whereas the head note of the suit of the petitioner-plaintiff shows that suit property is a gair mumkin plot (private property) situated within the abadi deh of village and not a land which is subject to any revenue.

I have gone through the impugned order and find no illegality in the same.

Dismissed.

14.02.2018
monika

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No