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

CR-93-2017 (O&M)
Date of decision : 10.12.2018

Malkit Singh

... Petitioner

Versus

Amrik Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sunny Singla, Advocate
for the petitioner.

Mr. Varun Jain, Advocate
for the respondent.

AMIT RAWAL, J.

The petitioner is aggrieved of the impugned order dated 07.11.2016 (Annexure P-3), whereby the application of the petitioner-defendant for rejection of the plaint on account of non-payment of proper court fee, has been dismissed.

Learned counsel for the petitioner-defendant submitted that the the plaintiff instituted the suit for recovery of ₹40 Lacs on account of malicious prosecution and for causing economic loss, loss to reputation. In para No.18 and 23 of the plaint, the plaintiff alleged that the plaintiff is entitled to recover ₹40 Lacs, therefore, he himself has valued the present suit for the purpose of court fee and jurisdiction of ₹40 Lacs, but but he affixed court fee of ₹50/- only, thus, the suit is liable to be dismissed on

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account of non-payment of proper court fee. In support of his contentions, reliance has been laid down to the *ratio decidendi* culled out by this Court in ***Manjeet Singh vs. Beant Sharma, 2012(4) PLR 287, Ranjit Kaur and others vs. Punjab State Electricity Board and another, 2007 (4)PLR 719, Man Singh and another vs. Sumer Singh and others, 2009(1) PLR 564*** and ***Jiwan Kumar Modi vs. Nand Kishore Bhandari, 2014(9) RCR (Civil) 2197.***

Learned counsel for the respondent-plaintiff submitted that the plaintiff has affixed the proper court fee on the plaint and the amount as claimed is tentative one and the same has to be decided by the court. The plaintiff has already given an undertaking in the plaint to pay the court fee on the awarded amount of compensation. In support of his contentions, he has relied upon the judgment of this Court in ***Subhash Chander Goel Vs. Harvind Sagar 2003 AIR (Punjab) 248*** to contend that in such type of suit, tentative fee has to be accepted as the exact value can be ascertained at the final stage when the evidence has been led, thus, urges this Court for dismissal of the present revision petition.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Singla, as in a suit for damages in view of the *ratio decidendi* culled out by this Court in ***Subhash Chander Goel's case*** (supra) which has been rendered by taking into consideration the judgments rendered by various courts including Hon'ble the Supreme Court. It is a settled law that the principles of evaluation of suit as in simple suits for recovery of liquidated claims will not apply for the purpose of court fee, in such a suit valuation put by the plaintiff has to be tentative and cannot be disputed where the

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court is unable to say what the correct valuation of the relief is, plaintiff cannot be called upon to pay entire court fee, which is yet to be ascertained. This view of mine is supported as per the judgment rendered in *State of Punjab and others Vs. Jagdip Singh Chowhan 2005 (1) RCR (Civil) 54*.

Keeping in view the aforementioned facts and circumstances, I do not find any illegality and perversity in the impugned order, under challenge, much less, no ground is made out for interference. Accordingly, the present revision petition is dismissed.

10.12.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**