

In the High Court of Punjab and Haryana at Chandigarh

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CR No.5386 of 2018

Date of decision: 6.11.2019

Rulda Singh and others

.....petitioners

Versus

**Skylark Software Technologies Pvt.Ltd.
and another**

.....respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. J.S.Cooner, Advocate,
for the petitioners.

Mr.Mrigank Sharma, Advocate
for the respondents.

RAJ MOHAN SINGH, J.(oral)

Petitioners have laid challenge to the order dated 20.7.2018 passed by Civil Judge (Jr.Divn.), Ambala, vide which an application under Order 7 Rule 11 CPC for rejection of plaint was allowed and the plaintiff was directed to value the suit @ Rs.1,10,00,000/- per acre for the purposes of paying *advalorem* court fee.

Learned counsel for the petitioners states that even if specific enhanced amount per acre was claimed as per para No.5 of the plaint, the same is always subject to final determination by the Court on the basis of quality of evidence to be led by the parties and in such eventuality, a contingent

decree can be passed.

Per contra, learned counsel for the respondents has emphasized on the pleadings in terms of para No.5 of the plaint and contended that the enhanced amount @ Rs.1,50,00,000/- per acre has been admitted by the plaintiff and the plaintiff is legally required to pay *advalorem* court fee as per the quantified amount claimed.

In **Shiv Kumar Sharma vs. Santosh Kumari, 2007**

(4) CCC 333 (SC), the Hon'ble Apex Court has held that even in case of specific amount claimed by the plaintiff, the determination would be made by the Court in respect of the amount awarded at a subsequent stage on the basis of evidence to be led by the parties. It is true that the damages cannot be granted without payment of court fee, but in case where damages are required to be calculated on the basis of variety of evidence, a fixed court fee is required to be paid. On the quantum so determined by the Court, the plaintiff can be asked to make good the deficiency in court fee at a subsequent stage for which a contingent decree can be passed. In **Hem Raj vs. Harchet Singh, 1993 CivCC 48**, this Court has held that the issue of court fee cannot be treated to be a preliminary issue. In a suit for damages and compensation, the tentative valuation of the suit for the purpose of court fee cannot be disputed. In case of amount of compensation, there is no objective standard

available in determining the amount for which the plaintiff has to value the relief claimed by him. In the nature of things, the valuation put by the plaintiff is tentative in view of settled position of law, the same cannot be disputed.

This Court in Sunita Rani and another vs. State of Punjab and others, 2015 (3) PLR 580 and Civil Revision No.5893 of 2016 titled Amandeep Sidhu vs. M/s Ultratech Cement Ltd. And others decided on 15.9.2016, has taken the aforesaid view. Against **Amandeep Sidhu's case (supra)**, SLP (C) No.3500 of 2017 was filed in the Hon'ble Apex Court and the same was dismissed upholding the order dated 15.9.2016.

For the reasons recorded herein above, this Revision Petition is allowed. The impugned order dated 20.7.2018 is set aside. Trial Court shall proceed with the suit without insisting upon payment of court fee. However, a contingent decree can be passed by the trial Court in the event of finding that the requisite court fee would be payable at a subsequent stage.

Nothing expressed herein above shall be construed to be an opinion on the merits of the case.

November 06, 2019
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/Speaking

Yes/No

Whether reportable

Yes/No