

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.201

CR-5494-2018 (O&M)

Date of decision: 16.10.2019

Darshan Kumar and others

....Petitioners

versus

Surinder Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Umesh Aggarwal, Advocate
for the petitioners.

Mr. L.M. Gulati, Advocate
for the respondents.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 07.08.2018 passed by the Civil Judge (Junior Division), Amritsar (for short – the Trial Court) disposing of the respondents' application filed by them under Order 7 Rule 11 CPC with a direction to the petitioners to pay the Court fee on the amount of ₹10,00,000/- which had been claimed by them from the respondents in their recovery suit.

On the last date of hearing, learned counsel for the petitioners produced an order of the Trial Court dated 26.04.2018 through which the respondents' application under Order 7 Rule 11 CPC had already been disposed of and wherein it was held that since the amount claimed by the petitioners was yet to be determined they could not be directed to pay ad valorem court fee. Learned counsel for the respondents had taken time to verify whether any such order was passed and when the matter was taken up today, he fairly admits to the same.

In view of the fact that the respondents' application filed by them under Order 7 Rule 11 CPC had already been disposed of in favour of the petitioners on 26.04.2018, no subsequent order thereupon without any application filed by the respondents seeking its review could have been passed. Apparently, the Trial Court as also the learned counsel for the parties before it inadvertently or otherwise, were unaware of the passing of the aforesaid order dated 26.04.2018.

That being so, the impugned order is set aside. However, on prayer made by learned counsel for the respondents, he is granted liberty to challenge the aforesaid order dated 26.04.2018 in accordance with law.

The present petition is allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

October 16, 2019

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No