

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR No. 2103 of 2019 (O&M)

Date of decision : 28.3.2019

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Komal Rani and another

.....Petitioners

vs.

Smt. Laxmi Bai and others

.....Respondents

**Coram: Hon'ble Mr. Justice H. S. Madaan**

Present: Mr. Ajit Malik, Advocate for the petitioners

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**H. S. Madaan, J.**

This revision petition is directed against order dated 13.12.2018 passed by Additional Civil Judge (Junior Division), Panipat, vide which application filed by the petitioners-defendants seeking rejection of plaint for non-fixing of proper court fee, has been dismissed by the trial Court.

Briefly stated, facts of the case are that plaintiff – Laxmi Bai, aged about 80 years, widow of Sher Chand @ Sher Bahadur, r/o village Rair Kalan, Tehsil Madlauda, District Panipat, had brought a suit for mandatory injunction against defendants Komal Rani and others, seeking issuance of direction to defendant No.2 – Kailash Rani alleged wife of Sher Chand @ Sher Bahadur, to hand over possession of car, a house, a bara, belonging to deceased Sher Chand

@ Sher Bahadur, besides craving for grant of possession of 60 kanal of land from defendants No. 1 to 3.

On notice, defendants put in appearance. Defendants No. 1 and 2 filed an application for rejection of plaint under Order 7 Rule 11 CPC, for the reason that the suit was not properly valued for the purpose of court fee and jurisdiction. The application was opposed by the plaintiff contending that she was not liable to pay the court fee since she was not a party to the alleged release deeds and other sale deeds.

After hearing the counsel, the trial Court dismissed the application with following observations:-

6. Turning to the facts of the application in hand, it would be relevant to note that plaintiff has claimed the relief of possession in respect to a portion of the suit land and movable property as legal heirs of deceased Sher Chand in the capacity of his widow. It is further pleaded that she was not a party to the release deeds and sale deeds in question. The pivotal point for determination at this point is that whether the plaintiff is a legal heir of the deceased? And if the question is answered in affirmative whether she is liable to pay ad valorem court fee? Thus, the aforesaid question cannot be determined at this stage without giving an opportunity to the parties to lead credible and

cogent evidence. Further, the court fee can always be recovered later at the time of final adjudication. Thus the application in hand is disposed with observation that the question of sufficiency of court fee is open to be determined at the time of final adjudication.”

I have gone through the said impugned order carefully and I do not find any illegality or infirmity therein, which might have called for interference by this Court while exercising revisional jurisdiction. Therefore, finding no merit in the revision petition, the same stands dismissed.

**28.03.2019**  
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**( H.S. Madaan )**  
**Judge**

Whether speaking / reasoned                      Yes / No

Whether reportable                                      Yes / No