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

**Civil Revision No.10281 of 2018 (O&M)
Date of Decision: 25.11.2019**

Mange Ram

.....Petitioner

Vs

State of Haryana and others

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Mani Ram Verma, Advocate
for the petitioner.

Mr. Vishal Kashyap, A.A.G., Haryana.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the order dated 21.11.2018 passed by the Addl. Civil Judge (Sr. Divn.) Siwani, vide which the application under Order 7 Rule 11 CPC filed by the defendants seeking issuance of directions to the plaintiff to assess the amount of compensation and to affix *ad valorem* court fee was allowed.

[2]. The trial Court while allowing the application has observed that the work of assessment and calculation of the compensation amount cannot be left open because in future if the suit of the plaintiffs is decreed, it will create complexities in

the execution of such a decree in the absence of any such assessment of compensation. The application has been allowed with a direction to the plaintiffs to assess the amount of compensation sought from the Court along with interest.

[3]. Plaintiffs have filed a suit for declaration on the premise that the possession of their land was taken and the same has been utilized without acquiring the same. The suit for declaration is to the effect that the plaintiffs are entitled to the compensation in respect of land measuring 6 Kanals 13 Marlas being 4/9th share, out of land measuring 14 Kanals 18 Marlas as shown in the headnote of the plaint. Plaintiffs have also claimed interest.

[4]. I have considered the submissions made by learned counsel for the parties.

[5]. In the absence of any such assessment unliquidated amount was the subject matter of the suit and grant of compensation would be dependent upon nature of evidence to be led by the parties during trial in determination of market value of the acquired land.

[6]. In **Shiv Kumar Sharma vs. Santosh Kumari, 2007 (4) Civil Court Cases 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 trial Court in respect of the

amount to be awarded at a subsequent stage on the basis of quality of evidence to be led by the parties. It is true that damages cannot be granted without payment of court fee, but in the instant case, the suit is for declaration in respect of claim with regard to compensation of the land owned by the plaintiffs. The possession of the land was taken by the State without there being any acquisition of the same. The compensation is required to be adjudged on the basis of variety of evidence and a fixed court fee can be paid at this juncture. In such an eventuality, the Court can pass a contingent/conditional decree at a later stage on merits.

[7]. In **Hem Raj vs. Harchet Singh, 1993 CCC 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 purposes of court fee cannot be disputed. There is no objective standard available for determining the amount for which plaintiff has to value the suit in respect of relief claimed by him. The valuation put by the plaintiff is tentative in nature. In this regard, the proposition held in **Sunita Rani and another vs. State of Punjab and others, 2015(3) PLR 580** can be relied.

[8]. In the light of aforesaid facts, the impugned order passed by the trial Court is not legally sustainable. This revision

petition is allowed. The impugned order dated 21.11.2018 passed by the Addl. Civil Judge (Sr. Divn.) Siwani is set aside. However, the trial Court would be at liberty to pass contingent decree on merits in case the Court ultimately finds that *ad valorem court* fee is payable by the plaintiffs.

November 25, 2019

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No