IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.2475 of 2017
Date of decision : 23.01.2020

Jai Bhagwan Goel .... Petitioner

Versus

Harjeet Kaur and Ors. .... Respondents

Before: Hon'ble Mr. Justice B.S. Walia.

Present: Mr. Lajpat Sharma, Advocate for the petitioner.

Mr. Vivek Thakur, Advocate for respondent Nos.1 to 3.

Mr. H.S. Kasan, Advocate for respondent No.6.

Mr. D.K. Bhatti, Advocate for respondent No.8.

***

B.S. Walia, J.

[1] Prayer in the revision petition under Article 227 of the Constitution of India is for setting aside order, Annexure P/4 dated 10.08.2016 passed by the learned Addl. Civil Judge (Sr. Div.) Guhla directing the petitioner to pay ad valorem Court fee on the plaint as well as order, Annexure P/5 dated 16.08.2016 passed by the learned Addl. Civil Judge (Sr. Div.), Guhla, District Kaithal dismissing the suit filed by the petitioner for not complying with the direction issued vide order, Annexure P/4 dated 10.08.2016.

[2] Brief facts of the case leading to the filing of the revision petition are that the petitioner/plaintiff claiming to be a Press Reporter of 'Hindi Daily Punjab Kesari' filed a suit against the respondents/defendants claiming damages to the tune of Rs.20 lakhs on account of loss of reputation,

physical, financial and mental suffering, besides, loss in business. An application was moved under Order 7 Rule 11 CPC by the respondents/defendants claiming that the suit had been filed for recovery of specific amount of Rs.20 lakhs as damages on account of loss of reputation but the petitioner/plaintiff had deliberately not paid the ad valorem Court fee, therefore, prayer was that the plaint be rejected or in the alternative the petitioner/plaintiff be directed to pay the ad valorem Court fee.

[3] In reply to the application under Order 7 Rule 11 CPC, reliance was placed by the petitioner on the order of this Court passed in CR No.2721 of 2011 to contend that there was no need to file any Court fee. The learned Addl. Civil Judge (Sr. Div.), Guhla by placing reliance on case titled as **Sunita Rani and another vs State of Punjab and another, 2015 (3) PLR 580** held that ad valorem Court fee was liable to be paid by the petitioner/plaintiff and that the order of this Court in CR No.2721 of 2011 was not applicable in the facts and circumstances of the case as in the said case, plaintiff in his cross-examination had admitted about the recovery of damages of Rs.5 lakhs and it was not clear from the order as to whether the amount of recovery claimed in the said suit was liquidated or unliquidated damages. Accordingly, while allowing the application, opportunity was granted to the petitioner/plaintiff to affix ad valorem Court fee by the next date of hearing.

[4] Learned counsel for the petitioner by placing reliance on the decision of this Court in **Manpreet Singh vs Gurmail Singh and others, 2017 (1) RCR (Civil) 230** contended that the valuation given by the petitioner was tentative, therefore, petitioner could not be required to pay ad valorem Court fee in a suit for damages and exact court fee would be payable only on the final decision of the case.

[5] Learned counsel for respondents on the other hand, has relied upon the decision of a Division Bench of this Court in **M.S. Chemical Industries Ltd. vs Hindustan Commercial Bank Ltd., 1956 AIR (Punjab) 214** in which it was held that in a claim for damages, Court fee would be payable as per Section 7 (i) of the Court Fee Act, 1870 on the amount claimed as damages. Relevant extract of the same is reproduced as under :-

> *"6. Now, the amount claimed in this suit is Rs. 6,023/1/9 and Section 7(1) Court Fees Act provides:*
>
> > *"7. The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:*
> >
> > > *(i) In suits for money (including suits for damages or compensation, or arrears of maintenance of annuities, or of other sums payable periodically according to the amount claimed."*
>
> *The court-fee is to be paid according to the amount claimed. The question for decision in the present case is what was the amount claimed by M/s. M. S. Chemical Industries Limited. In my opinion it is Rs. 6,023/1/9 and it is on that amount that court-fee is payable.*
>
> *In a case decided by the* ***Punjab Chief Court Qayam-ud-Din v. The Delhi Flour Mills Co Ltd 61 Pun Re 1919 (2)*** *the plaintiff claimed that Rs. 3,625/- was due to him from the defendant by way of damages for breach of contract and also alleged that Rs. 2,500/- was due by him to the defendants as price of certain goods received, thus claiming Rs. 1,125/4/-, and it was held that the proper court-fee payable was on this sum notwithstanding that the Court had to adjudicate upon the loss sustained by the plaintiff on account of the breach of contract which was estimated at Rs. 3,625/4/-.*

In the present case also the amount which the plaintiff Company was claiming was Rs. 6,023/1/9 which was made up of Rs. 30,000/- which they claimed as damages minus the amount which was due from them on the cash credit account. This Judgment is on all fours with the present case and I am in respectful agreement with it."

[6] The aforementioned decision was followed in **Ranjit Kaur and others vs Punjab State Electricity Board and another, 2007 (4) PLR 719**. In said case, the plaintiffs had specifically claimed damages of Rs.20 lakhs although exact break-up of the entire claim had not been mentioned. Accordingly, while holding that the plaintiffs had specifically claimed Rs. 20 lacs as damages and whether they succeeded in the claim was not the point which could be gone into at the time of deciding the question whether proper Court fee had been affixed. The plaintiff may or may not succeed in getting the amount claimed but it was for him to establish his loss and affix Court fees thereon and it was settled law that Court fee had to be determined on the basis of the entire reading of the plaint. Therefore, in terms of Section 7 (i) of the Court Fee Act, 1870, the plaintiffs were liable to pay ad valorem Curt fees on the amount of damages claimed i.e. Rs.20 lakhs. Relevant extract of the aforesaid decision is reproduced as under :-

"14. In the present case, the plaintiffs have specifically claimed Rs. 20 lacs as damages. Though exact break up of the entire claim has not been mentioned, yet the basis of claim of such compensation is available in the plaint which is evident from reading para Nos. 5 to 9 thereof. Therefore, the plaintiffs have claimed specific amount. Whether the plaintiffs succeed in claiming such amount is not the question which can be done into at the time of deciding the question whether proper court fees has been affixed. The plaintiff may or may not succeed in getting the amount claimed but it is for him to establish his loss

and affix court fees thereon. It is well settled that the court fees has to be determined on the basis of entire reading of the plaint. Therefore, in terms of Section 7(i) of the Act, the plaintiffs are liable to pay ad valorem court fees on the amount of Rs. 20 lacs."

[7] Likewise, a co-ordinate bench of this Court in **Man Singh and another vs Sumer Singh and others, 2009 (1) PLR 564** took a similar view and held that since the plaintiffs had claimed compensation of Rs.20 lakhs it could not be said that it was a case where damages had not been assessed and since the petitioner had assessed the value of compensation at Rs.20 lakhs, therefore, the learned trial Court was justified in ordering the payment of ad valorem Court fee on Rs.20 lakhs. Relevant extract of the aforementioned decision is reproduced as under :-

"13. In the present case it may be noticed that the plaintiffs have claimed compensation of Rs.20 lacs and therefore, it is not a case where the damages have not been assessed, as is the case in the cases referred to by the learned counsel for the petitioners.

14. In all the cases referred to above it has been laid down than the Court fee has to be paid on the tentative value as assessed by the plaintiff. The petitioner in the present case assessed the value of compensation at Rs.20 lacs, but, however has framed his suit for declaration and mandatory injunction. It is also well-settled that the relief claimed and not form of suit, which is to determine court fee payable.

15. Thus, in view of the suit as framed learned trial Court was justified in ordering the payment of ad valorem court fee on a sum of Rs.20 lacs.

Keeping in view the facts that operation of the impugned order was stayed by this Court, while dismissing revision petition it is ordered that the petitioner plaintiffs may now make good the deficiency in Court fee within 2 months from today."

[8] Another co-ordinate bench of this Court in **Manjeet Singh vs Beant Sharma, 2012 (4) PLR 287** by relying upon the decision of this Court in **Hem Raj vs Harchet Singh, 1993 (1) Civil Court Cases 48** held that as per the provisions of the Court Fee Act, 1870, suit for damages fell under Section 7 (i) whereas suit for accounts fell under Section 7 (iv) (f) but in case of suit for damages falling under Section 7 (i) of the Court Fees Act, 1870 the amount of Court fee had to be paid according to the amount claimed whereas in suit for accounts falling under Section 7 (iv) (f), Court fee had to be paid according to the amount at which the suit was valued by the plaintiff and the plaintiff had to state the same. It was further held that in the said case, the plaintiff had claimed specific amount of Rs.2 lakhs as compensation/damages and since it was a money suit for recovery of Rs.2 lakhs, therefore, in view of unambiguous and categorical provision of Section 7 (i) of the Court Fees Act, 1870, the plaintiff had to pay ad valorem Court fee on the aforesaid amount. Reliance was placed on the decision in the case of **Ranjit Kaur and others vs Punjab State Electricity Board and another, 2007 (1) RCR (Civil) 686**. Relevant extract of the decision in Manjeet Singh's case (Supra) is reproduced as under :-

> *"11. A bare perusal of the aforesaid provision reveals that suit for accounts falls in category different from suit for damages or compensation. In the judgment of Hem Raj (supra), suit for damages was held to be akin to suit for accounts and the same judgment was followed in the subsequent judgments of Subhash Chander Goel (supra) and State of Punjab and others (supra). However, under the above provisions of the Court Fees Act, suit for damages falls under Section 7(i) whereas suit for accounts falls under Section 7(iv) (f). In case of suit for damages falling under Section 7(i) of the Court Fees Act, the amount of Court*

fee has to be paid according to the amount claimed whereas in suit for accounts falling under Section 7(iv)(f), Court fee has to be paid according to the amount at which the suit is valued by the plaintiff and the plaintiff has to state the same. In the instant case, the plaintiff has claimed specific amount of Rs.2,00,000/- as compensation/damages. This is a money suit for recovery of Rs.2,00,000/- and, therefore, in view of unambiguous and categorical provision of Section 7(i) of the Court Fees Act, the plaintiff has to pay ad valorem Court fee on the aforesaid amount. This view finds support from judgment in the case of Ranjit Kaur (supra).

Although in the suit, the plaintiff has used the expression 'un liquidated damages', but in fact the plaintiff has claimed liquidated amount of damages i.e. specific amount of Rs.2,00,000/- and it appears to have been done to evade payment of ad valorem Court fee on the suit amount. For the reason aforesaid, I find no infirmity, much less illegality, perversity or jurisdictional error in impugned order of the trial Court. The plaintiff-petitioner has to pay ad valorem Court fee on the suit amount claimed by him and has been rightly directed to do so by the trial Court. The impugned order, therefore, does not warrant interference by this Court in exercise of power of Superintendence under Article 227 of the Constitution of India because there is no ground to interfere with the impugned order. Accordingly the revision petition is dismissed".

[9] In the instant case, a perusal of the plaint reveals that although it was mentioned that value of suit for purpose of Court fee was unascertained as the genuineness of the damages was to be ascertained by the Court but a specific prayer had been made for a decree to the tune of Rs.20 lakhs for damages on account of regulating loss of reputation, physical, financial and

mental suffering and loss in business of the plaintiff or to the extent the Court would assess and ascertain as appropriate.

[10] In view of prayer for damages having been made to the extent of a specified amount, the case is squarely covered by the decision in Ranjit Kaur's case (Supra) for whether the plaintiff succeeds in claiming the amount of Rs.20 lakhs or not, is not to be gone into at the time of deciding the question whether proper Court fee has been affixed. The plaintiff may or may not succeed in getting the amount claimed but it is for him to establish his loss and affix Court fee thereon as it is well-settled that Court fee has to be determined on the basis of the entire reading of the plaint. Therefore, in terms of Section 7 (i) of the Court Fees Act, 1870, the plaintiff is liable to pay ad valorem court fee on the amount as claimed by him.

[11] Accordingly, I do not find any circumstances warranting taking of a view different from the one taken by the learned Addl. Civil Judge (Sr. Division), Guhla in his order, Annexure P/4 dated 10.08.2016 or in the subsequent order, Annexure P/5 dated 16.08.2016 dismissing the civil suit for failure to affix ad valorem Court fee.

[12] In the light of the position as noted above, the revision petition is bereft of merit and is accordingly dismissed.

(B.S. Walia)
Judge

23.01.2020.
amit

1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.