

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-387-2020(O&M)

Date of decision: 20.01.2020

Ranjan Sood

.....Petitioner

Versus

Manjit Singh Dhaliwal and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Amit Jain, Advocate for the petitioner

ANIL KSHETARPAL, J. (ORAL)

Present revision petition has been filed against two orders dated 18.11.2019 and 3.12.2019 passed by learned Civil Judge, Junior Division, Khanna. Learned Civil Judge directed the plaintiff to fix ad valorem court fee, assessed at Rs.14 lacs. Since the plaintiff did not deposit the same, Civil Judge, Junior Division chose to dismiss the suit under Order 9 Rule 2 CPC. Subsequently, an application was moved by the plaintiff for restoration of the suit as well as for assessing correct ad valorem court fee payable. Learned Civil Judge has restored the suit and assessed the correct court fee payable at Rs.2,56,756.25.

Learned counsel for the petitioner submitted that since the required court fee has not been deposited, therefore, plaint should be deemed to have been rejected under Order 7 Rule 11 CPC and such order covered by the definition of a decree of the Court. He, hence, submits that only an appeal is maintainable.

This Court has considered the submissions. No doubt the

Court ought to have rejected the plaint under Order 7 Rule 11 CPC once the plaintiff failed to deposit the amount, however, Civil Judge Junior Division passed an order under Order 9 Rule 2 CPC. Against such order only an application was maintainable. The aforesaid application for the reasons stated in the order has been entertained and decided. In any case, the requisite ad valorem court fee, as assessed by the Court vide order dated 3.12.2019, has now been deposited.

Keeping in view the aforesaid facts, let the suit filed by the plaintiff be decided on merits. However, the defendant shall be entitled to object to the quantum of court fee paid by the plaintiff and pray for framing of an issue thereon.

Disposed of.

20.01.2020

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No