

*(In virtual Court)*

CR No.2135 of 2021 (O&amp;M)

Date of Decision: 29.09.2021

Jeet Kumar

.....Petitioner

Versus

Manisha Garg

.....Respondent

**CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present: Mr. Judgepreet Singh Warring, Advocate for the petitioner.

**RAJBIR SEHRAWAT, J. (ORAL)**

This is a revision petition filed under Article 227 of the Constitution of India for setting aside order dated 18.08.2021 passed by the Civil Judge (Junior Division), Abhor, whereby an application under Order 6 Rule 17 CPC filed by the petitioner/defendant seeking amendment of written statement stands partly dismissed.

It is submitted by learned counsel for the petitioner that if the pleadings, as sought by the petitioner by way of amendment of written statement regarding maintainability of suit and deficiency in Court fee are not included in the pleadings of the petitioner/defendant, then the petitioner would not be able to lead the relevant evidence on the aspect. Therefore, the Court below has wrongly declined the amendment.

Having heard the counsel for the petitioner and having perused the case file, this Court does not find any substance in the argument raised by the counsel for the petitioner. Undisputedly, the issue regarding the maintainability of the suit has already been framed by the trial Court. Hence, the petitioner would be at liberty to adduce any evidence in the case, qua the maintainability of the suit, as such. Even qua the issue of court fee, the

petitioner has already brought the issue to the knowledge of the trial Court. The issue of court fee is between the plaintiff and the Court. Therefore, any specific pleading in that regard on behalf of the defendant/petitioner, herein, is not necessary. Still, the trial Court has already observed in the order that the petitioner, if so advised; can move the Court under Order 7 Rule 11 CPC on the issue of court fee.

In view of the above, this Court does not find any illegality or irregularity with the impugned order passed by the trial Court. Hence, the present revision petition is dismissed.

However, the petitioner would be at liberty to avail remedies as observed by the trial Court in its order dated 18.08.2021; or as are admissible under the law.

**(RAJBIR SEHRAWAT)**  
**JUDGE**

**29.09.2021**  
*sandeep*

Whether Speaking/Reasoned : Yes/No

Whether Reportable : Yes/No