

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

NARESH KUMAR
2022.11.07 09:45

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CR-3938 of 2018 (O&M)
Date of decision: 31.10.2022

ICS Hotel Pvt. Ltd.

..Petitioner

Versus

Urmila Mehrotra and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjay Vij, Advocate, for the petitioner.
Mr. R.N.Lohan, Advocate, for respondent no.1.

ANIL KSHETARPAL, J(Oral)

The learned trial court, while dismissing an application under Order VII Rule 11 CPC, has observed that the plaintiff has already affixed the ad valorem court fee applicable on the relief of possession by way of Specific Performance of the agreement to sell.

The petitioner, defendant no.1 in the suit, has challenged its correctness in this revision petition.

This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book

The learned counsel representing the petitioner admits that on the relief of Specific Performance of the agreement to sell, ad valorem Court fee of Rs.8,81,000/- has already been deposited. The plaintiff has also sought the relief of recovery of future damages/compensation. He has also prayed for recovery of rent.

In the facts of the case, the primary relief sought in the suit is for possession by way of Specific Performance of the agreement to sell. All the remaining reliefs are consequential to the main relief. The plaintiff has paid a tentative court fee on such reliefs.

In view of the judgment passed by the Supreme Court in *Sri Rathnavarmaraja vs. Smt. Vimla, 1961 AIR (Supreme Court) 1299*, a revision petition at the behest of the defendant, who has already taken an objection of deficiency in Court fees before the trial court but the same has been rejected, is not maintainable. However, in the facts of the case, the revision petition is disposed of while directing the trial court to frame a specific issue on this aspect i.e. 'whether proper court fee has been affixed in the suit?'. This issue shall be decided by the trial court while finally deciding the suit.

The observations made by the trial court or this Court that the proper court fee has been affixed shall not be construed as final expression of opinion on merits of the question.

All the pending miscellaneous applications, if any, are also disposed of.

October 31, 2022

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(ANIL KSHETARPAL)
JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>