

**106-1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1.CR-5275-2015 (O&M)

Yash Pal Wadhwa

....Petitioner

Versus

Har Parkash and another

..Respondents

2.CR-1416-2015 (O&M)

Yash Pal Wadhwa

....Petitioner

Versus

Har Parkash and another

..Respondents

Date of decision: 01.08.2022

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ravindra Jain, Advocate for the petitioner
Mr.Hemen Aggarwal, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

These two connected revision petitions filed by the plaintiff, in a suit filed under Section 6 of the Specific Relief Act, 1963, for restoration of the possession of tenanted premises shall stand disposed of.

In an application filed by the defendant under Order 7 Rule 11 of the Code of Civil Procedure, 1908, the court has directed the plaintiff to pay the ad valorem court fee on the amount of Rs.4,32,000/-. The plaintiff has also sought relief of damages at the rate of Rs.12,000/- per month. In substance, this is like a regular suit for grant of decree of possession with respect to a commercial property. The court has directed the plaintiff to pay the ad valorem court fee on the amount of

Rs.4,32,000/- and on account of his failure to pay the same, the plaint has also been rejected.

Learned counsel representing the petitioner while relying upon **Harish Chand vs. Som Nath and others 2013 (1) RCR(Civil) 367** contends that ad valorem court fee is not payable. This Court has carefully read the aforesaid judgment. In that case, a suit for mandatory injunction was filed by the licensor against his licensee after termination of the license. In that context, the court observed that the plaintiff is not liable to pay the ad valorem court fee. In the present case, the plaintiff prays for restoration of possession as also for grant of damages. Hence, the aforesaid judgment is not applicable.

Since the plaint has been rejected during the pendency of the civil revision petition no. 1416 of 2015, therefore, the plaintiff is granted 8 weeks time to deposit the court fee. If the plaintiff makes good the deficiency in court fee, within the time specified, the suit filed by the plaintiff shall stand restored.

Disposed of.

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

01.08.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE