

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

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**CR No. 6809 of 2018 (O&M)
Date of decision: 12.10.2022**

Risal Singh

...Petitioner

Versus

Vishav Nath and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

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

Mr. Rakesh Nagpal, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the order dated 24.09.2018, passed by the Additional Civil Judge (Sr. Divn.), Fatehabad, vide which an application filed by the respondent/defendant under Order 7 Rule 11 CPC for rejection of the suit on account of non-affixation of ad-valorem court fee on the amount of Rs. 5,00,000/- was allowed and the petitioner/plaintiff was directed to deposit the ad-valorem court fee accordingly.

Learned counsel for the petitioner submits that the petitioner has filed a suit for damages to the tune of Rs. 5,00,000/- against the respondent/defendant on account of levelling false allegations before the higher authorities for making protest etc. Haryana Government PWD Mechanical Employees Union, therefore, he is entitled to a decree of damages to a tune of Rs. 5,00,000/-.

It is further submitted that the respondent/defendant filed an

application under Order 7 Rule 11 CPC for rejection of the plaint on account of non-affixation of ad-valorem court fee, which was allowed and the trial Court, vide impugned order dated 24.09.2018, directed the petitioner/plaintiff to deposit the requisite ad-valorem court fee for an amount of Rs. 4,94,000/-.

This petition is pending since 2018 and while issuing notice of motion on 06.10.2018, the operation of the impugned order was stayed by this Court.

Learned counsel for the petitioner submits that in the plaint, the petitioner has given an undertaking that after passing of the decree, he will deposit the requisite ad-valorem court fee, therefore, the impugned order is liable to be set aside.

However, learned counsel for the respondent/defendant submits that not only in the head note and prayer clause but in the body of the plaint itself, the petitioner has quantified the damages to a tune of Rs. 5,00,000/-, therefore, he is liable to pay the requisite court fee at the time of institution of the suit and the same cannot be deferred till the time a decree is passed by the trial Court.

Learned counsel for the respondent further submits that even in the eventuality of dismissal of the suit, the petitioner is bound to deposit the court fee on the claimed amount i.e. Rs. 5,00,000/-.

After hearing learned counsel for the parties and going through the order impugned, in view of the judgment of Hon'ble Supreme Court rendered in **2022 (2) RCR (Civil) 464, State of Punjab and others vs. Dev Brat Sharma**, I find no merit in the present petition as the petitioner himself has quantified the liquidated damages to a tune of Rs. 5,00,000/-, for which,

he is bound to deposit the ad-valorem court fee.

In view of the same, the present petition is dismissed.

The petitioner is granted liberty to deposit the ad-valorem court fee till 30.11.2022, failing which, the suit will be dismissed.

12.10.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No