120 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-990-2022
DECIDED ON: MARCH 22nd , 2022

DHARAMBIR

.....PETITIONER

VERSUS

RAJBALA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Ajay Kumar Kansal, Advocate for the petitioner.

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SANDEEP MOUDGIL, J (ORAL)

Petitioner/plaintiff – Dharambir – by filing this revision petition under Article 227 of the Constitution of India has impugned the order dated 14th March, 2022 (Annexure P-8) passed by learned Civil Judge (Sr. Division), Jind, thereby directing the petitioner/plaintiff to affix the ad valorem court fee on the amount of Rs.15,00,000/- as claimed by him as damages in the suit i.e. CS/413/2017.

The factual matrix in the instant revision petition pertains to malicious prosecution of the plaintiff-petitioner in FIR No. 56, dated 17th March, 2011, under Sections 420, 467, 468, 471, 406 and 506 IPC registered at Police Station Sadar, Jind with the allegations that a gift deed was got registered fraudulently on the basis of false affidavits and documents submitted in the office of District Town Planner, Jind for the purpose of obtaining No Objection Certificate. The plaintiff-petitioner was acquitted of the charges vide judgment dated 24th May, 2016 by the learned

Additional Chief Judicial Magistrate, Jind categorically holding that the plaintiff-petitioner has not committed the alleged offence and gave finding that a gift deed was executed by the complainant on her free will having no occasion to forge her signatures on the documents for obtaining NOC for transfer.

The plaintiff-petitioner thereafter preferred a suit for damages after having remained behind the bars for more than three months. He claimed damages apart from having spent Rs.1,00,000/- in defending the case stating that he is an agriculturist and has went under a trauma in jail having sleepless nights as a result of which he went under depression and his health also got deteriorated apart from having tarnished his reputation in the entire village and relations.

The plaintiff-petitioner has claimed damages to the tune of Rs.15,00,000/-, however, affixed the Court fee by tentatively assissing/evaluating the suit at Rs.1,50,000/- only.

Respondents/Defendants No.1 and 3 (Rajbala and Azad Singh respectively) moved an application under Order 7 Rule 11 read with Section 151 of the Code of Civil Procedure seeking rejection of plaint for insufficient Court fee, as according to them plaintiff needed to affix on the plaint ad valorem Court fee. The said application was accepted and the plaintiff-petitioner was directed to affix the court fee @ Rs.15,00,000/-, the amount at which the suit has been valued to claim damages by 24th March, 2022. It is against the said order passed by the Civil Judge (Sr. Division), Jind, the present revision petition has come up before this Court.

Learned counsel for the petitioner vehemently contended that petitioner/plaintiff is not bound to pay ad valorem court fee on the amount so claimed because the quantum of damages is yet to be determined by the court. Petitioner/plaintiff will make good the deficiency of the court fee, if any, on the amount so assessed by the court.

Learned counsel for the petitioner made specific reference to para 16 of the civil suit, which reads as under:

> *"That value of the suit for the purpose of court fee is tentatively assessed at Rs.1,50,000/- on which a court fee of Rs.8550/- is attached. The value for the purposes of jurisdiction is assessed at Rs.15,00,000/-. Plaintiff undertakes to pay the balance court fee upon the damages assessed by the Hon'ble Court finally after recording the evidence."*

The sole argument of the learned counsel for the petitioner is that the exact amount of damages is yet to be assessed by the court and the court fee would be paid after assessment of the amount of damages.

Learned trial court has wrongly directed the petitioner/plaintiff to pay ad valorem court fee on the amount of Rs.15,00,000/-.

Learned counsel for the petitioner has relied upon the following judgments in support of his arguments:-

i) Hem Raj Vs. Harchet Singh; 1993 (1) CCC 48;

ii) Vimlesh Devi & Another Vs. SDO & others, 2019 (1) RCR (Civil) 829;

iii) Manpreet Singh vs. Gurmail Singh & others, 2017 (1) RCR (Civil) 230;

I have carefully considered the contentions raised by the learned counsel for the petitioner and the judgments cited.

Chapter III of the Court Fees Act, 1870 (for short 'the Act') deals with 'Fees In Other Courts And In Public Offices.' Section 6 thereof provides that no document of any kind specified as chargeable in the First or Second Schedule of this Act would be filed, exhibited or recorded in any Court of Justice or would be received or furnished by any public officer, unless in respect of such document, fee of an amount not less than that indicated by either of the said Schedules as the proper fee for such document is paid. First Schedule lays down the computation of ad valorem Court fee whereas Second Schedule gives the table of fixed Court fees payable on different categories of plaints, documents and pleadings.

Section 7 thereof provides for computation of fee payable in certain suits. Sub-clause (i) refers to Money Suits which includes suits for damages, compensation, arrears of maintenance, annuities or other sums payable periodically where the fee payable would be according to the amount claimed. Then, there are other sub-clauses which are not relevant for the case in hand. However, sub-clause (iv) which has further six categories, namely, suits (a) for movable property of no market value; (b) to enforce a right to share in joint family property; (c) for a declaratory decree and consequential relief; (d) for an injunction; (e) for easements; and (f) for accounts. The fees on a suit falling in these categories would be payable according to the amount at which the relief sought is valued in the plaint or memorandum of appeal. It also states that in all such suits the plaintiff would state the amount at which he values the relief sought. Section 6 and relevant part of Section 7 of the Act are reproduced hereunder: -

> ***"6. Fees on documents filed, etc., in Mofussil Courts or in public offices. –***
> *Except in the Courts hereinbefore mentioned, no document of any of the kinds specified as chargeable in the First or Second Schedule to this act annexed shall be filed, exhibited or recorded in any Court of Justice, or shall be received or furnished by any public officer, unless in respect of such document there be paid a fee of an amount not less than that indicated by either of the said Schedules as the proper fee for such document.*
> ***7.Computation of fees payable in certain suits. –***
> *The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows: -*
> ***for money.-*** *(i) In suits for money (including suits for damages or compensation, or arrears of maintenance,*

> *of annuities, or of other sums payable periodically) – according to the amount claimed.*
> *XXX XXX XXXX XXX XXX*
> *XXX XXX XXXX XXX XXX*
>
> *(iv) In suits –*
> ***for movable property of no market-value.**- (a) for moveable property where the subject- matter has no market-value, as, for instance, in the case of documents relating to title,*
> ***to enforce a right to share in joint family property-***
> *(b) to enforce the right to share in any property on the ground that it is joint family property,*
> ***for a declaratory decree and consequential relief. -***
> *(c) to obtain a declaratory decree or order, where consequential relief is prayed,*
> ***for an injunction. –** (d) to obtain an injunction,*
> ***for easements.** – (e) for a right to some benefit (not herein otherwise provided for) to arise out of land, and*
> ***for accounts. -** (f) for accounts- according to the amount at which the relief sought is valued in the plaint or memorandum of appeal;*
>
> *In all such suits the plaintiff shall state the amount at which he values the relief sought;*

The moot question for consideration is "whether the suit in question as framed was a money suit for compensation/damages falling under Clause (i) of Section 7 or was a suit falling in any of the categories specified in clause (iv) of Section 7 of the Act". A reading of the relief clause would make it abundantly clear that this was a money suit for compensation/damages and not falling under any of the categories mentioned in clause (iv) of Section 7 of the Act. Therefore, there would be no question at all for the applicability of Section 7(iv) of the Act. It would be a simple case of applicability of Section 7(i) of the Act being related to damages/compensation and ad valorem Court-fee will have to be paid as per Schedule 1 entry 1.

It is only with respect to the category of suits specified in clause (iv) of Section 7 of the Act that the plaintiff has the liberty of stating in the plaint the amount at which relief is valued and Court-fee would be payable on the said amount. Liberty given under clause (iv) to the specific suits of six categories is not available to the suits falling under any other clause, be it (i), (ii), (iii) etc. Once the suit in question was a money suit for compensation and damages falling under clause (i) of Section 7 of the Act, ad valorem Court-fee would be payable on the amount so claimed.

In the case of ***Hem Raj (supra)*** and all other judgments referred by learned counsel for the petitioner, reliance is placed upon the observations from the judgment of ***M/s Commercial Aviation (supra)*** explaining the departure of difference carved out for the categories and suits covered by Section 7(iv) of the Act. The said judgments are not applicable to the facts and circumstances of the present case, as nowhere in the case of ***M/s Commercial Aviation (supra)***, the Apex Court ever laid down that for the purposes of suits covered by clauses other than Section 7(iv), there could be separate valuation for the purposes of court fees and jurisdiction.

What is important to note here is that this case relates to the valuation for the purposes of relief sought.

The valuation for the purposes of jurisdiction and relief has to be the same in the money suits falling under category 7(i). It was only in category of suits covered by Clause (iv) of Section 7 that there could not be two different valuations for the purposes of jurisdiction and for relief sought.

It is specifically noted that the judgment in the case of ***Hem Raj (supra)*** did not notice the statutory provisions and other binding precedents.

In ***Abdul Hamid Shamsi vs. Abdul Majid and others, AIR***

1988 SC 1150, the Hon'ble Supreme Court has held that it is not permitted to the plaintiff to choose unreasonable and arbitrary figure for the purpose of court fee and it is open to the court to reject such figure.

It would be apetite to have a glance to the provisions of Order 7 Rule 11 of the CPC, which reads as under:-

> ***"11. Rejection of plaint.***
>
> *The plaint shall be rejected in the following cases-*
> *(a) where it does not disclose a cause of action;*
> *(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;*
> *(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;*
>
> *(d) where the suit appears from the statement in the plaint to be barred by any law:*
>
> ***Provided*** *that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature form correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff."*

It is a case where the plaintiff-petitioner has properly valued the relief claimed but insufficiently stamped the suit for which the Court below has very rightly called upon to make good of insufficient Court fee within a stipulated time that stands expired on 24th March, 2022.

The petitioner/plaintiff has claimed a specific amount of Rs.15,00,000/- as damages and is required to pay ad valorem court fee as required under Section 7(i) of the Court-fees Act, 1870.

From the perusal of petition it has been revealed that the suit valuation put forth by the petitioner/plaintiff was found to be insufficient and undervalued in so far as the plaintiff has claimed damages to the tune of Rs.15,00,000/- but for the purpose of jurisdiction and court fee, plaintiff has valued the suit at Rs.1,50,000/-. In such circumstances, trial court has rightly rejected the valuation. The Court could accept the valuation put forth by the petitioner, if it is not arbitrarily or manifestly inadequate. From the perusal of the record and the plaint, it is clear that petitioner/plaintiff has affixed insufficient court fee in a whimsical and arbitrary manner.

In view of above, this Court is of the definite view that it was open to the trial court to consider, accept or reject the valuation done by the plaintiff/petitioner, as such, the trial Court has rightly rejected such valuation and directed the petitioner/plaintiff to pay ad valorem court fee, as required to be paid on the value of the damages claimed by the petitioner/plaintiff.

In view of the above, I do not find any infirmity, illegality or perversity in the impugned order. Hence no ground for interference is called for by this Court.

Dismissed in *limine.*

(SANDEEP MOUDGIL)
JUDGE

MARCH 22nd, 2022
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Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*