

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

**Civil Revision No.1866 of 2022
Date of Decision: 12th May, 2022**

Rajinder Parsad Garg @ Rajender Parshad

...Revisionist-Petitioner

Versus

Shakuntla Devi & Others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Ashwani Bhardwaj, Advocate,
for the revisionist-petitioner.

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MEENAKSHI I. MEHTA, J.

By way of the instant revision petition, the petitioner-defendant No.1 (for short 'the defendant') assails the order dated 18.04.2022 (Annexure P-1) passed by learned Additional Civil Judge (Senior Division) Hansi (for short 'the trial Court') whereby the application moved by him under Order 7 Rule 11 CPC for seeking the rejection of the plaint in the Civil Suit filed by respondent No.1-plaintiff (for short 'the plaintiff') against him as well as performa respondents-defendants No.2 & 3 for seeking the relief of mandatory injunction, has been dismissed.

I have heard learned counsel for the petitioner in this petition at the preliminary stage and have also perused the file carefully.

Learned counsel for the defendant contends that in the above-said civil suit, the plaintiff has sought the relief of mandatory injunction directing the petitioner and the remaining defendants to vacate and hand

over the possession of the suit property and has further prayed for directing the defendant to pay the mense profit @ Rs.01 (one) lac per month for the use and occupation of the same but however, she (plaintiff) has not affixed the proper court-fee on the plaint and therefore, the same is liable to be rejected on this score alone but vide the impugned order, the trial Court has dismissed the application as moved by the defendant for this purpose and hence, the said order is not legally sustainable and the same deserves to be set aside.

However, I do not find the afore-raised contention to be tenable because it has specifically been observed by the Apex Court in **Sri Rathnavarmaraja Versus Smt. Vimla 1961 AIR (Supreme Court) 1299** that *“the question of affixation/payment of the Court fee is between the plaintiff and the State and the defendant had no right to move the superior Courts by way of appeal or revision petition in the eventuality of the said question having been decided against him”*. In the light of the afore-cited observations, it is explicit that the present revision petition deserves dismissal. Resultantly, the same stands dismissed accordingly.

12.05.2022

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**(MEENAKSHI I. MEHTA)
JUDGE**

Whether speaking/reasoned:

Yes

Whether Reportable:

No