

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

**Civil Revision No.2047 of 2022
Date of Decision: 23rd May, 2022**

Gurdyal Singh @ Gurdial Singh & Others

...Revisionists-Petitioners

Versus

Mahender Singh & Others

...Respondents

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

Present:- Mr. D.P.S. Bajwa, Advocate &
Mr. Rakesh Dhiman, Advocate,
for the revisionists-petitioners.

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MEENAKSHI I. MEHTA, J.

By way of the instant revision-petition, the petitioners-plaintiffs (here-in-after to be referred as 'the plaintiffs') have assailed the order dated 12.10.2021 (Annexure P-5) passed by learned Civil Judge (Junior Division) Narwana (for short 'the trial Court'), whereby the application moved by the respondents-defendants (here-in-after to be referred as 'the defendants') under Order 7 Rule 11 CPC for seeking rejection of the plaint, has been partly allowed qua the plea regarding the Court-fee while observing that they (plaintiffs) are required to pay the *ad-valorem* court fee on the amount sought to be recovered from the defendants.

2. I have heard learned counsel for the petitioners-plaintiffs in the present revision petition and have also perused the file thoroughly.

3. Learned counsel for the plaintiffs contend that the amount of

compensation on account of use and occupation of the suit land would be ascertained at the time of final decision of the suit and therefore, the plaintiffs could not be directed to pay/affix the *ad-valorem* court fee on the said amount at the initial stage. They have placed reliance upon **Hoshiar Singh vs. Niranjan Singh 2008(3) LJR 729** wherein the Single Bench of this Court, while relying upon the observations made by Hon'ble Supreme Court in **M/s Commercial Aviation & Travel Company & Others vs. Mrs. Vimla Panna Lal 1988(2) PLR 288,** has observed that "*the Court could not assess the fee payable by the plaintiff as there was no objective standard of valuation and ad-valorem fee was not to be paid and the trial Court would direct the plaintiff to pay such Court fee as may be due in accordance with the claim decreed in his favour on the conclusion of the suit.*"

4. However, the afore-raised contention is devoid of any merit because the plaintiffs have filed the civil suit against the defendants for seeking the decree for liquidation compensation on account of the use and occupation of the suit land for the period from 01.03.1985 till its possession was handed over to them in June 2017, while averring that the rate of *Chakota* (a kind of rent for land) in the village, where the said land is situated, was Rs.40,000/- to Rs.50,000/- per acre per annum. It being so, the provisions of Section 7(i) of the Court Fees Act, 1870, which provide for computing the court fee in money suits including the suits for damages and compensation, according to the amount claimed, would be applicable to the said civil suit. Moreover, in **State of Punjab & Others vs. Dev Brat**

Sharma Civil Appeal No(s).2064 of 2022 (arising out of SLP (Civil) No(s).12468 of 2018) Decided on 16.03.2022, the Apex Court has categorically observed that “in a suit where the amount of damages is claimed, the ad-valorem Court fees would be payable on the amount claimed.” The above-discussed observations clinch the entire controversy between the parties regarding the affixation of the court fee on the plaint and in the light of the same, it is held that the plaintiffs are required to affix the ad-valorem court fee on their plaint according to the amount as sought to be recovered from the defendants.

5. The observations made in **M/s Commercial Aviation & Travel Company & Others (supra)** and **Hoshiar Singh (supra)** would not be of any avail to the plaintiffs because in the afore-cited cases, the relief for rendition of accounts was sought and hence, it was observed that such suits were covered under Section 7 (iv)(f) of the Court Fees Act, 1870 whereas, in the said civil suit, the plaintiffs have sought the compensation for use and occupation of the suit land.

6. As a sequel to the fore-going discussion, it follows that the impugned order does not suffer from any illegality, infirmity, irregularity or perversity so as to call for any interference by this Court. Resultantly, the present revision petition, being devoid of any merit, stands dismissed.

23.05.2022

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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

Yes