

202

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

RSA No.5657 of 2017 (O&M)

Date of decision: 22.07.2022

Arjun Dev (since deceased) through his LRs and others

....Petitioners

Versus

Ram Parkash (since deceased) through his LRs and others

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Pritam S. Saini, Advocate
for the petitioners.

Mr. Deepak Thapar, Advocate
for the respondents.

ARVIND SINGH SANGWAN J. (Oral)

Challenge in this appeal is to the order dated 07.05.2014, vide which on account of non-deposit of the court fees in compliance of an earlier order dated 27.09.2013, the plaint was rejected in terms of Order 7 Rule 11 CPC.

The plaintiff/appellant thereafter filed an appeal before the Lower Appellate Court which was also dismissed vide impugned judgment dated 07.02.2017 and this appeal is pending since 2017.

Counsel for the parties are ad idem that while passing the order dated 27.09.2013 or even subsequently, when the plaint was rejected, the trial Court has not assessed the value on which the advalorem court fee was required to be paid by the appellant/plaintiff.

Counsel for the appellant has fairly stated that the matter be remanded back to the trial Court to first ascertain the court fee, so

that the appellant will pay the advalorem court fee in terms of the order dated 27.09.2013.

The offer made by counsel for the appellant is neither disputed nor denied by counsel appearing for the respondents/defendants.

In view of the consent given by both the parties, the present petition is allowed and the impugned order dated 07.05.2014 passed by the trial Court and the judgment dated 07.02.2017 passed by the Lower Appellate Court is set-aside and the matter is remanded back to the trial Court with a direction that at the first instance, the trial Court will assess the value of the suit property as on the date of filing/institution of the suit and will grant 30 days time to the plaintiffs/appellants to deposit the advalorem court fee.

Disposed of.

The parties through their counsel are directed to appear before the trial Court, Samalkha on 10.08.2022.

(ARVIND SINGH SANGWAN)
JUDGE

22.07.2022
yakub

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No