

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

CR-6118-2022 (O&M)

Date of decision: 22.12.2022

Ramandeep Singh

...Petitioner

Versus

Harinderpal Kaur

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Sukhandeep Singh, Advocate for the petitioner.

H.S. MADAAN, J. (Oral)

Briefly stated facts of the case are that plaintiff Harinderpal Kaur had brought a suit for recovery as damages and compensation against defendant Ramandeep Singh working as Sonologist on contract basis with Civil Hospital, Tarn Taran and presently at Sahib Nursing Home, Jandiala Road, Tarn Taran.

Notice of the suit was given to the defendant, who put in appearance, filing an application under Order 7 Rule 11 CPC for rejection of the plaint for want of adequate Court fee as per amount contemplated to be recovered in the suit. Inter alia, in the application, the defendant contended that the plaintiff has claimed an amount of Rs.10 lacs as alleged to be justified amount which be awarded in her favour as is spelled out in para No.19 of the plaint, but she has

affixed Rs.50/- as Court fee, therefore, she be asked to pay ad-valorem Court fee on the amount of Rs.10 lacs.

The application was resisted on behalf of the plaintiff, and vide impugned order dt. 14.11.2022, the application was dismissed, leaving the defendant aggrieved and he has approached this Court by way of filing the present revision petition, praying that the same be accepted; the impugned order be set aside and application seeking rejection of the plaint be accepted.

I have heard learned counsel for the revision petitioner besides going through the record and I find that the revision petition is devoid of any merit.

A perusal of the plaint goes to show that the plaintiff in the headnote of the plaint has not quantified the damages claimed by her from the defendant, rather, it is mentioned that such damages are to be determined/assessed by the Court. Similarly, in the prayer clause also, no particular amount is mentioned as amount of damages claimed by the plaintiff from the defendant. In para No.20 of the plaint, it is clearly written that the value of the suit for the purpose of Court fee and jurisdiction shall be ascertained as and when amount of damages is determined/assessed by the Court, however, a tentative amount of Rs.50/- has been affixed on the plaint as Court fee, and that the plaintiff undertakes to pay the appropriate Court fee as and when the amount of damages is ascertained and determined by the

Court. In para No.19 of the plaint, it is pleaded that although no amount can be considered to be sufficient to meet the loss, which had been suffered by the plaintiff at hands of the defendant but at the same time, an amount of Rs.10 lacs is being temporarily considered by the plaintiff to be somewhat justified. Again, this is the tentative amount claimed. The plaintiff can certainly be not directed to affix ad-valorem Court fee on amount of Rs.10 lacs merely because of such figure being mentioned in para No.19 of the plaint. The trial Court was justified in rejecting the application. The relevant para of the order passed by the trial Court is being reproduced as under for ready reference:-

*“I have heard Ld. Counsel for both the parties and gone through the file carefully, this court is of the considered view that the plaintiff- respondent has filed a suit for damages and compensation against the defendant as detailed in the head note of the plaint. In such case the court has no other alternative than to accept the plaintiff valuation tentatively. The court has been relied upon judgment case titled as **Sachin Sharma Vs. Indu Sharma & ors, in the High Court of Punjab and Haryana 2023(3)** it has been held that “Court fees suit for damages, tentative court fee. Damages are not being quantified in the plaint for in the prayer clause, vague statement has been made that the damages have been suffered by plaintiff over Rs.20 lakhs, in such circumstances tentative court fee would be payable and not the advalorem court fee”. In view of the above discussion, and in view of the present circumstances, fixation of advalourm Court fee is not required. Hence, the present application stands dismissed and disposed off*

accordingly.”

I do not find any illegality or infirmity in the order which is quite detailed and well reasoned without there being any element of perversity or arbitrariness. As far as judgments referred to by learned counsel for the petitioner **State of Punjab & Ors. Vs. Dev Brat Sharma** in Civil Appeal No.2064 of 2022 by the Apex Court and **S.R. Laddhar Vs. Mohan Nagpal & Ors.**, in CR-2326-2017, decided on 31.10.2022 by a single Judge of this Court, those are not applicable due to different facts and circumstances, since it is only in para No.19 of the plaint, the plaintiff has given a tentative figure of Rs.10 lacs as damages, otherwise, leaving it to the Court to assess and determine the amount of damages. Furthermore, the plaintiff can be asked to affix the ad-valorem Court fee on determination of particular amount as damages payable to her by the defendant and she in para No.20 of the plaint has given an undertaking in that regard.

I do not see any reason to interfere with the impugned order by exercising revisional jurisdiction. The revision petition is found to be without merit and is dismissed accordingly.

22.12.2022

sumit.k

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No