IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR 8196 of 2018 (O&M)
Date of Decision: April 18, 2022

FMI Limited ...Petitioner

Versus

Annapurna Food Association

... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Namit Gautam, Advocate
for the petitioner.

Mr. Manuj Nagrath, Advocate
for the respondent.

FATEH DEEP SINGH, J. (Oral)

In a civil suit for mandatory injunction etc. preferred by the plaintiff FMI Limited, GT, Road, Doraha, Ludhiana respondent/present petitioner and Annapurna Food Association now respondent then plaintiff, the Court of Civil Judge, Junior Division, Ludhiana vide impugned order dated 20.09.2018 dismissed the application under Order 7 Rule 11 CPC for rejection of the plaint. This is how the instant revision has come about.

Heard Mr. Namit Gautam, Advocate for the petitioner and Mr. Manuj Nagrath, Advocate for the respondent and perused the records.

What has been reflected from the pleadings in the suit, which is a relief of mandatory injunction seeking directions to hand over the vacant and peaceful possession of the premises detailed therein which happens to be a commercial area and further is seeking damages to the tune of Rs.50 lacs on account of loss of income, reputation etc. The plaintiff had assessed the value for the purposes of court fees and jurisdiction to the tune of Rs.500/- for mandatory injunction and Rs.500/- for the relief of permanent injunction and therefore affixed a Court fee of Rs.1000/-. In the light of the same, the application was moved.

Appreciating the submissions of the two sides, it is well writ large on the records besides relief of mandatory injunction and permanent injunction, the plaintiff is seeking relief by way of damages to the tune of Rs.50 lacs on account of loss of income, reputation, mental agony etc. alongwith the future interest. The contention of Mr. Manuj Nagrath counsel for the respondent that since the relief of damages is not quantified therefore the ad-valorem court fee needs to be affixed and for which he has placed reliance on **Shiv Kumar Sharma Vs. Santosh Kumari Civil Appeal No. 4341 of 2007** and which is controverted by Mr. Namit Gautam by citing **State of Punjab and others Vs. Dev Brat Sharma** Civil Appeal No. 2064 of 2022, **Ranjit Kaur and others** Vs. **Punjab State Electricity Board and another** 2006(4) Law Herald 3002, **R.S. Malik Vs. Sh. Krishan Mohan, IAS and others** CR No. 814 of 2007 (O&M), **Manjeet Singh Vs. Beant Sharma** 2012(4) PLR 287 and **Sunita Rani and another Vs. State of Punjab and others** 2015 (3) PLR 580.

It is well enunciated in **Section 7 (i) of the Court Fees Act, 1870,** which is reproduced as below to lay emphasis:-

> ***(i) for money-*** *In suits for money (including suit for damages or compensation, or arrears of maintenance, of annuities, or of other sums payable periodically)- according to the amount claim;*

clearly enumerates that the court fees on such a relief is payable according to the amount claimed and similar view is laid down by the latest view of the Apex Court **State of Punjab and others Vs. Dev Brat Sharma** case, *ibid,* where the Supreme Court has considered this aspect of the matter. The plaintiff had since separately valued for relief of damages being sought and thus has no liberty and right to give different valuations to what was being actually claimed by him. It is a determined amount of money by way of damages which the plaintiff is trying to seek. The Court needs to look into the real intent of the relief and make out what the party is trying to obtain relief. In the present suit a veiled relief is being sought by this camouflage. The suit has been valued besides other relief of mandatory injunction to the tune of Rs.50 lacs for damages and therefore needs to pay ad-valrem court fee on the same in terms of Section 7(i) of the Court Fees Act, 1870 and it is no where in the plaint there is tentative valuation for the purpose of this relief of damages.

Learned lower Court has fell into an error by holding that it is in due course Courts of law liquidated amount would be calculated when the Court will decree the case is certainly a preposterous preposition to help the plaintiff to evade his obligations in paying Court fees and, thus, has resulted in robbing the State of its revenue. The reasons enunciated therein are apparently contrary to the settled preposition of law and statute and needs to be set aside. The present revision petition is allowed and the order under challenge dated 20.09.2018 (Annexure P-4) is set aside. However, this Court does not feel inclined at this juncture to have resort to the provisions of Order 7 Rule 11 CPC by straightaway rejecting the plaint in terms of Order 7 Rule 11 (b) CPC and for which grants sufficient time of one month to the plaintiff in making good this deficiency before the trial Court on putting upon appearance else the plaint would automatically stands rejected in terms of Order 7 Rule 11 CPC.

The present revision petition stands disposed off accordingly.

April 18, 2022 **(FATEH DEEP SINGH)**
amit rana **JUDGE**

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