

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

(247)

CR-4601-2018

Date of Decision : April 20, 2023

Dalip Singh through his LRs

.. Petitioners

Versus

Virsa Singh through his LRs

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. H.P.S Ghuman, Advocate, for the petitioners.

None for the respondents.

HARSIMRAN SINGH SETHI J. (ORAL)

Present civil revision petition has been filed challenging the order dated 16.05.2018 (Annexure P-1) by which, the petitioners-plaintiffs were directed to pay *ad valorem* Court fee for the relief sought.

While issuing notice of motion on 01.08.2018, Coordinate Bench of this Court passed the following order:-

“CM No.15474-CII of 2018

By this application, advancement of the date of hearing in the accompanying petition is sought, which otherwise stands adjourned to 4.9.2018, on the ground that the impugned order by which the petitioners have been directed to pay court fee ad valorem is subsisting, with the trial also continuing before the learned Civil Judge.

No notice having been issued in the accompanying petition, the application is allowed and the date of hearing is

advanced to today itself.

CR No.4601 of 2018

Mr. Ghumman, learned counsel for the petitioners, points to Annexure P-2, which is a copy of the plaint shown to be filed by Dalip Singh son of Bishan Singh through his legal representatives, who are shown to be his widow and 7 children (daughters and sons), showing that it was a suit seeking a declaration to the effect that the plaintiffs are joint owners of about 7 kanals of land as described in the head note of the plaint.

He further points to the contents of the plaint, wherein it is stated that the entire case of the plaintiff is that he (predecessor of the LRs) was, even as per existing revenue record, a joint owner in the suit property and therefore, would be deemed to be in joint possession till such time a partition is effected and consequently, court fee ad valorem is not payable.

He further relies upon a judgment of a coordinate Bench in Rajiv Kumar and others vs. Rakesh Kumar and others, 2015(8) RCR (Civil) 588, wherein after relying upon a judgment of Division Bench as also of a Full Bench of this Court, it was held that as every co-sharer is deemed to be in possession of every inch of the co-shared property, the fixed court fee of Rs.10/- is payable and not ad valorem at the rate applicable to the land in question.

Notice of motion, returnable on 25.1.2019.

In the meanwhile, the learned trial Court would continue with the trial without insisting upon payment of the court fee ad valorem.”

The matter is pending before this Court for the last five years approximately.

Learned counsel for the petitioners submits that the suit is already at the advance stage of recording of the evidence.

Keeping in view the fact that the suit has already progressed in view of the liberty granted while passing interim order dated 01.08.2018 passed by the Coordinate Bench of this Court, the present civil revision petition is disposed of with the observation that the question of fixation of Court fee is left open to be decided by the trial Court in accordance with law while passing the final order.

April 20, 2023

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No