

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR 8342/2017

Date of decision:16.02.2023

Puneet Kamal Singh Dhaliwal

.....Petitioner.

Vs.

Manmeet Sandhu and others

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Nitin Thatai, Advocate for the petitioner
 Mr.Amit Sharma, Advocate for the respondent.

Nidhi Gupta, J.

Present revision petition has been filed by the petitioner/defendant seeking setting aside of the order dated 1.9.2017 (Annexure P-6) passed by Civil Judge (Junior Division), Ludhiana whereby application filed by the petitioner/ defendant u/o 7 Rule 11 CPC for rejection of plaint has been dismissed.

Brief facts of the case are that respondent/plaintiff filed a suit for recovery of Rs.50 lacs as damages against the petitioner, inter-alia, on account of the petitioner ruining her life and career, loss of earning, and losing

of PR Status in Canada, physical and mental agony as well as torture caused to her.

As the amount of damages sought by the plaintiff was quantified in the plaint, petitioner/defendant filed an application u/o 7 Rule 11 CPC seeking rejection of the plaint on the ground that Court fees was not paid on amount of valuation of suit/damages claimed.

Learned Trial Court dismissed the said application vide impugned order on the ground that since the exact value of the relief to be granted to the respondent could not be ascertained, therefore, the Court-fees of Rs.50/- affixed by the respondent/plaintiff was accepted.

It is submitted by the learned counsel for the petitioner that the suit filed by respondent no.1 had not been properly valued for the purpose of court-fees. It is submitted that respondent no.1 had claimed a specific amount of Rs.50 lacs as damages and therefore, as per Section 7(i) of the Court-fees Act,1870, respondent no.1 was required to pay ad valorem court-fees for the aforesaid amount.

Per contra, it is submitted by the learned counsel for the respondent that revision petition against dismissal of application for direction to plaintiff to pay ad valorem court-fees is not maintainable as the question of court-fees is between the State and the plaintiff. In support, learned counsel for the respondent/plaintiff relies upon judgment of Hon'ble Supreme Court in **Sri Rathnavarmaraja v Smt. Vimla**, Law Finder Doc Id# 111964 and four judgments of this Court in **Matu Ram v Sukhjeet Kaur and others**, CR 6529/2017; **Arjan Motors v Girdhara Singh and others**, Law Finder Doc Id # 74363; **Ashwani Kumar Sharma v Sanjay Kumar Sharma and**

another, CR 2079/2016; and Babu Ram Arya v Jai Bhagwan and others, CR 3289/2012.

No other argument has been advanced on behalf of the parties.

Heard ld. Counsel for the parties.

In my view, the issue regarding Court-fees in case of a suit for recovery as damages stands undisputedly settled by way of judgment of the Hon'ble Supreme Court in **State of Punjab and others v Dev Brat Sharma, Law Finder Doc Id # 1957286**, wherein their Lordships of the Hon'ble Supreme Court have categorically held that:-

Civil Procedure Code, 1908, Order 7, Rule 11 read with Section 151 - Suit for recovery as damages - Court fees - Rejection of plaint - Held, suit for damages, ad valorem Court-fees would be payable on amount of damages claimed - Dismissal of application for rejection of plaint on ground of deficient court fees set aside. (2012) SCC Online P&H 13081, relied on.

In my view, the respondent can derive no benefit from the relied upon judgments - to the effect that question of Court fees is between the State and the plaintiff - as said judgments were rendered in cases where suit was for possession or declaration, and not in a case where the suit was filed for recovery of damages, such as the present case where suit is filed for recovery of damages and the amount has been quantified in the plaint. As such, ad valorem court-fees would be payable on the amount of damages claimed. Perusal of the head note of the plaint, as well as prayer clause, clearly show that a decree for recovery of Rs.50 lacs as damages has been prayed for.

In this regard, reliance may also be placed upon judgments passed by this

Court in **S.R. Laddhar v Mohan Nagpal and others, Law Finder Doc Id # 2073080**; and **FMI Limited v Annapurna Food Association, Law Finder Doc Id # 2019831**.

Accordingly, in view of the undisputed position in law as noticed above, the present revision petition is allowed, and order dated 1.9.2017 (Annexure P-6) passed by Civil Judge (Junior Division), Ludhiana in Civil Suit No.274 dated 13.5.2016 is set aside.

16/02/2023
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No