

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

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2023:PHHC:102463

CR-822-2023

Date of decision: 08.08.2023

MOHAN SINGH

..Petitioner

Versus

JOGA SINGH

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. N.K. Manchanda, Advocate
for the petitioner.

Mr. Navinderjit Singh Dandiwal, Advocate
for respondent.

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein was a defendant in a suit for specific performance of the agreement to sell in which the plaintiff also prayed for grant of alternative relief of a refund of earnest money. The trial Court did not grant relief of specific performance but decreed the suit to the extent of Rs.6,00,000/-. The defendant filed first appeal along with the *ad valorem* Court fee as on the amount of Rs.6,00,000/-. However, the First Appellate Court has directed the petitioner (defendant) to fix Court fee on the entire amount.

2. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

3. The learned counsel representing the petitioner contends that the dispute in the appeal is confined to the correctness of decree passed by the trial Court with respect to the recovery of Rs.6,00,000/- only. Hence, the order passed by the First Appellate Court suffers from material error.

4. On the other hand, the learned counsel representing the respondent (plaintiff in the trial Court) submits that in the appeal, the prayer for dismissal of the suit has also been made.

5. This Court has considered the submissions.

6. The amount of Court fee has direct connection with the relief sought in the particular proceedings. Before the First appellate Court, the challenge is to the decree passed by the trial Court directing the defendant to pay Rs.6,00,000/- to the plaintiff (respondent herein).

7. In these circumstances, the order passed by the First Appellate Court directing the plaintiff to pay *ad valorem* Court fee on the total amount, which was subject matter of agreement to sell is clearly perverse. Hence, the same is set aside.

8. The First Appellate Court is requested to proceed with the matter in accordance with the law.

9. With these observations, the present petition is allowed.

10. All the pending miscellaneous applications, if any, are also disposed of.

August 08th, 2023

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**(ANIL KSHETARPAL)
JUDGE**

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