

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

**SAO No.12 of 2022(O&M)  
Date of Order:22.09.2023**

**SEHJAD****.Appellant****Versus****INDIAN COUNCIL OF AGRICULTURAL RESEARCH AND  
ANOTHER****..Respondents****SAO No.34 of 2022(O&M)****PAPPU @ PARAS RAM (DECEASED) THROUGH LRs****.Appellant****Versus****INDIAN COUNCIL OF AGRICULTURAL RESEARCH AND  
ANOTHER****..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present:     Mr. Amit Jain, Advocate, for the appellant.  
                 Mr. Naveen Chopra, Advocate, for the respondents**

**ANIL KSHETARPAL, J.(Oral)**

1.            The respondent before this court is an institution set up under the Ministry of Agriculture.
2.            Two civil suits filed for grant of the decree of possession with a consequential relief of permanent injunction by the respondent Institute are pending for the last 8 years. It is unfortunate that a trivial issue regarding the payment of court fees has resulted in an 8 year delay, rather than allowing the court to make final decision on the suit.
3.            The defendant filed an application under order 7 Rule 11 CPC

for rejecting the plaint filed by the Institute on the ground that sufficient court fees has not been affixed because the property is not agricultural and therefore, the ad-valorem court fees is payable. Pursuant thereto, the directions were issued. The Institute deposited Rs.92,250/- and Rs.1,63,023/-. Thereafter, yet another application was filed by the defendant in both the suits claiming that the sufficient amount has not been deposited.

4. In the considered view of this Court, the trial Court should have framed an issue and permitted the parties to lead evidence while deciding the same with the main case. However, the trial court rejected the plaint.

5. In appeal filed by the Institute, the appellate court has remanded the case back to the trial court to assess the market value in order to determine the amount of court fees.

6. At this stage, without permitting the parties to lead evidence, it would not be appropriate to frame a preliminary issue on the aforesaid ground and proceed to decide the matter.

7. The suit is at the preliminary stage as the defendants, in both the suits, have not filed their written statements.

8. Keeping in view the aforesaid facts, the order passed by the First Appellate Court while setting aside the order passed by the trial court is maintained. The order passed by the first appellate court directing the trial court to assess the actual court fees is modified by directing the trial court to frame an issue along with the other issues after the parties complete their pleadings.

9. The trial court will decide the aforesaid issue along with the main suit. At that stage, the court can pass a conditional decree subject to

making good the deficiency in the payment of the court fees. This court is conscious of the fact that it is the defendants which have come in the appeal, however, it would not be appropriate to permit a separate trial of an issue before proceeding with the main suit.

10. In such circumstances, this court in exercise of powers under Article 227 of the Constitution of India has modified the order in the interest of justice.

11. With these observations, both the appeals are disposed of accordingly.

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

September 22, 2023  
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(ANIL KSHETARPAL)  
JUDGE

Whether speaking/reasoned :YES/NO  
Whether reportable :YES/NO