

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

C.R. No.2026 of 2019 (O&M)

Date of Order:02.11.2023

Nanu Ram and another**.Petitioners****Versus****Mahabir (Deceased) through LRs****..Respondent****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

**Present: Mr. R.S.Mamli, Advocate, for the petitioners.
Mr. Kewal Krishan, Advocate
for the respondent.**

ANIL KSHETARPAL, J

1. The petitioner herein has been granted a decree for possession of an agricultural land measuring 1 kanal and 5 marlas in which a tubewell is installed. While decreeing the suit on 16.07.2018, the Court has directed the plaintiff to make good the deficiency in payment of court fee within a period of two months. The Court concluded that since a tubewell is installed, therefore, the land becomes 'Gair Mumkin'.
2. An application filed by the petitioner to deposit the deficient court fee has been rejected on the ground that it has been filed after the prescribed period.
3. Vide Haryana Act No.11 of 1974, which was subsequently amended by the Haryana Act No.22 of 1974, the State of Haryana made the following amendments in Section 7(V) of the Court Fees Act, 1870:-

As in Haryana

3[(a) where the subject matter is land other than land situated within municipal limits or Abadi Deh whether under cultivation or not, according to the market value thereof which shall be deemed to be,-

- (i) *in the case of land which is irrigated by perennial canal, sixty rupees per acre;*
- (ii) *in the case of land which is irrigated by non-perennial canal or by well, fifty rupees per acre; and*
- (iii) *in the case of land which is Barani, Sailad, Bhud, Thur, Sem, Banjar or of like nature, thirty rupees per acre; and*
- (iv) *where the subject-matter is house, garden, or land situated within municipal limits or Abadi Deh whether under cultivation or not, according to its market value.”*

4. The tubewell has been installed to facilitate irrigation of the agricultural land. The land is being utilised for agricultural purpose. While filing a suit the plaintiff (the petitioner) affixed the court fee of Rs.50/-. As per Clause (ii) of Section 7(v)(a), the market value of the agricultural land irrigated by tubewell is Rs.50/- per acre. In this case, the land in dispute is less than 1/4th of an acre. Thus, sufficient court fee has already been paid.

5. Keeping in view the aforesaid facts and discussion, the judgment passed by the trial court on 16.07.2018 as well as the order dated 16.02.2019 are set aside. The Executing Court is requested to implement the decree.

6. Disposed of accordingly.

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

November 02, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO