

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 2362 of 2023

Date of Decision: 01.08.2023

Girnar Impex Ltd.

... Petitioner(s)

Versus

M/s P.L.Steel Industries and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Viren Jain, Ms.Komaljit Kaur and
Ms. Tarranum Madan, Advocates
for the petitioner(s).

Mr. Atul Goyal, Advocate
for the respondents.

Anil Kshetarpal, J.

1. The plaintiff (petitioner) filed a suit for the grant of a decree for recovery of ₹20,00,000/- tentatively, as damages, along with the *pendente lite* and future interest @ 18% per annum.

2. While assessing the amount of court fee, the plaintiff claims that the value of the suit for the purpose of court fee and jurisdiction is ₹500/- tentatively on which a fixed court fee of ₹50/- has been affixed on the plaint. Previously, an application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as “CPC”) filed by the original defendants was dismissed by the trial Court. Subsequently, on the application of the plaintiff, the defendant No.4 was impleaded as a party-respondent No.4. Yet another application was filed by the respondent No.4 under Order VII Rule 11 CPC with a prayer to reject the plaint on account of

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an insufficient court fee. This time, the trial Court, while relying upon the judgment of the supreme Court in *State of Punjab and Others v. Dev Brat Sharma 2022(2) RCR (Civil) 464*, has ordered the plaintiff to affix *ad valorem* court fee. Hence, the correctness of the order has been challenged by filing the present revision petition.

3. The learned counsel representing the petitioner contends that the trial Court erred in recalling the previous order passed on 07.03.2018 on the basis of a subsequent judgment. He further contends that the respondent No.4 has been impleaded as a partner of defendant No.1. Hence, he has no independent right.

4. This Court has considered the submissions. The payment of court fee is covered by the provisions of the Court Fee Act, 1870 (hereinafter referred to as “the 1870 Act”). Section 7(i) of the 1870 Act provides that in suits for money including suits for damages or compensation, or arrears of maintenance, of annuities, the *ad valorem* court fee is payable, according to the amount claimed. The Supreme Court has reiterated the aforesaid fact in the judgment passed in *Dev Brat Sharma’s case (supra)*. In fact, the order passed by the trial Court on 07.03.2018 is in the nature of interlocutory order. Moreover, the Court, in the exercise of *suo moto* powers can direct the plaintiff to make good the deficiency in the court fee during the pendency of the suit as and when this fact comes to the notice of the Court. In any case, the plaintiff has filed a suit for recovery of amount of the alleged damages. The suit is between the plaintiff company and the respondent partnership firm. They are in business.

5. Keeping in view the aforesaid peculiar facts, no ground is made out to interfere in the directions issued by the trial Court particularly when the judgments passed by this Court stand over-ruled in *Dev Brat Sharma’s case (supra)*. Hence, the present revision petition is dismissed.

(Anil Kshetarpal)
Judge

August 01, 2023
“DK”

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