

2023:PHHC:163592

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2288-2022 (O&M)
Date of Decision: December 19, 2023

Tarsem Lal

...Petitioner

Versus

Kuldeep Kumar and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Aditya Dassaur, Advocate
for the petitioner.

Mr.Sukhdev S. Kanwal, Advocate
for the respondents.

ARCHANA PURI, J.

Through the present revision petition filed under Article 227 of the Constitution of India, the petitioner has challenged the order dated 19.04.2022 passed by learned Court below, whereby, an application under Order 7 Rule 11 CPC, filed for seeking rejection of plaint, in the event of non-payment of *ad valorem* Court fee, has been allowed.

In pursuance to the notice issued, the respondents have made appearance through counsel.

Learned counsel for the parties heard.

For the convenience of the discussion, the parties are referred to as plaintiff and defendants, as making appearance before learned lower Court.

The essential facts to be taken into consideration for the

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disposal of the present case are as herein, given:-

That, initially, plaintiff-Tarsem Lal had filed a suit for seeking recovery of Rs.20 lakh, as damages, on account of physical and mental harassment, agony/defamation of the plaintiff.

The defendants, after making appearance, had filed an application under Order 7 Rule 11 CPC, thereby, directing the plaintiff to pay *ad valorem* Court fee, failing which, sought rejection of the plaint. In the said application, it has been submitted that the plaintiff had filed the suit for recovery of Rs.20 lakh, along with interest, but he has affixed Court fee of Rs.50/- only. The relief claimed in the suit, is undervalued and as such, the plaintiff, as per Court Fee Act, is required to pay the Court fee, upon the relief claimed, though, it may be a tentative relief. Thus, the plaintiff be directed to make good the deficiency in the Court fee, failing which, his plaint be rejected.

In reply to the application, preliminary objection was taken, thereby, disputing the maintainability of the application, just to delay the proceedings. On merits, it was averred that suit is for tentative amount, which is yet to be ascertained by the Court, while deciding the present suit, at the time of final adjudication of the case. It is further averred that in case, the plaintiff is able to make out the case for damages, he is ready to pay the *ad valorem* Court fee. As such, a prayer was made for dismissal of the application..

After hearing learned counsel for the parties, the aforesaid application was allowed.

The payment of the extent of Court fee is regulated by the Court Fees Act, 1870. Section 7 of the ibid Act, prescribes the procedure to compute the amount of fee payable in a suit. Where the suit is for money, including suits for damages or compensation or arrears of maintenance, of annuities, or of any other sums payable periodically, then Section 7(i) lays down, as to how the amount of Court fee payable, is required to be calculated. Thus, it is evident that whenever the suit is for money, the Court fee is payable according to the amount claimed.

On the plain reading of the plaint, it is apparent that it is a suit for seeking damages of specified amount and therefore, as per Section 7(i) of the ibid Act, the ad valorem Court fee, is payable according to the amount claimed.

In this regard reference is made to the decision rendered by the Hon'ble Apex Court in *State of Punjab and others Vs. Dev Brat Sharma, 2022(2) RCR (Civil) 464*, wherein it has been categorically observed that in a suit for recovery as damages, *ad valorem* Court fee, would be payable on the amount of damages claimed.

In the light of the aforesaid, the impugned order, calling upon the plaintiff-petitioner to file the requisite Court fee, as per claim, so sought by him, calls for no further interference. Hence, the revision petition sans merit and is hereby dismissed.

December 19, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No