

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No.4783 of 2019 (O&M)

Date of Order:18.10.2023

Ved Parkash

.Petitioner

Versus

Sanjeev Kumar and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

**Present: Mr. Harshit Jain, Advocate, for the petitioner.
Mr. Varun Goyal, Advocate, for the respondents.**

ANIL KSHETARPAL, J

1. In this revision petition, the plaintiff prays for setting aside the interlocutory order passed by the trial court while directing him to pay the ad-valorem court fee on the market value of the suit property.

2. The plaintiff has filed a suit for grant of decree of mandatory injunction or in the alternative for possession by way of partition of the property. The plaintiff and the defendants are related to each other. In other words, they are the members of one large family. The plaintiff alleges that the defendants are in the permissive possession of the property. The trial court has directed the plaintiff to pay the ad-valorem court fee on the market value of the property assuming it to be the suit for possession.

3. It is evident that the plaintiff has filed a suit for mandatory injunction. It has been alleged that the defendants are in possession of the suit property as licencees. In such circumstances, the suit for mandatory injunction is maintainable.

4. The trial court has relied upon Section 7(V) of the Court Fees Act, 1870 which relates to the suit for possession and not for mandatory

injunction.

5. In view of the aforesaid facts and discussion, the impugned order is set aside. However, the defendants shall have the liberty to request the trial court to frame a distinct issue with respect to the liability to pay the court fee which shall be decided by the court along with the main case.

6. With these observations, the revision petition is allowed.

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

October 18, 2023
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(ANIL KSHETARPAL)
JUDGE

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