

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

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**CR-4391-2023
Decided on : 04.08.2023**

ABHISHEK KASHYAP AND ANR.

... Petitioners

Versus

MUNIR NAZAR

... Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. R.S. Bajaj, Advocate
for the petitioners.

SANJAY VASHISTH, J. (Oral)

1. Present Revision petition has been filed by the petitioners/plaintiffs for setting aside the order dated 03.03.2023 (Annexure P-4) whereby Ld. Civil Judge (Junior Division) disposed of the application filed by the defendant/respondent under 07 R 11 (c) read with Section 151, CPC, directing the petitioners/plaintiffs to affix the proper Court fee, failing which suit would be dismissed.

2. Counsel for the petitioners/plaintiffs refers to the copy of the plaint attached with the present petition (Annexure P-1) and submits that petitioners instituted a suit for recovery of the damages for humiliation, harassment and financial loss to the business caused by defamatory marks posted by respondent/ defendant in Whatsapp groups as well as in social media.

3. Counsel for the petitioners further submits that the defendant/respondent filed an application dated 06.07.2022 under 07 R11 (c) read with Section 151 CPC for the dismissal of a suit, on the ground that plaintiffs/petitioner have failed to affix requisite ad-valorem court fee with the suit, and thus, the suit is liable to be dismissed. Petitioners filed

objections to the said application and took a stand that they have affixed a tentative court fee with the plaint, and undertakes to pay the court fee in accordance with the damages, plaintiff would be held entitled to receive the amount on account of damager suffered by him.

4. Ld. Trial court after going through the submissions of both the parties came to the conclusion that although, the suit for recovery in question is not liable to be dismissed outrightly at this stage, but directed the petitioners/plaintiffs to affix the proper court fee. Said impugned order dated 03.03.2023 has been assailed by the plaintiff before this Court by way of present revision petition.

5. Counsel for the petitioners/plaintiffs refers to the judgment of this Court in **CR 6118 of 2022 titled as “Ramandeep Singh v. Harinderpal Kaur”** wherein, in a revision petition, order of Ld. Trial Court dismissing the application under 07 R11 for want of court fees filed by the defendant was upheld by holding that plaintiff has given only a tentative figure in the plaint and plaintiff can be asked to affix the ad-valorem court fee on determination of a particular amount as damages payable to her by defendant in due course of time.

While relying upon the aforementioned judgment passed by this Court, counsel submits that in a suit for damages on account of defamation/loss of reputation, if any tentative/minimum amount is claimed by plaintiff, there would not be any need of affixing Court fee as per that minimum/tentative claimed amount. However, said proposition would not be of any help to the petitioners/plaintiffs in view of the position of law discussed hereafter in this judgment.

6. In the case in hand, it is clear from the perusal of the plaint

attached with the petition that no specific amount has been claimed by the plaintiffs in the shape of damages neither in the title of the plaint nor in the prayer. For the sake of convenience, the title and the prayer of the plaint are reproduced here below:

“ABHISHEK KASHYAP S/o Sh. Puran Chand Kashyap aged about 41 Years.

2. Mrs. SARAN PREETI W/o Abhishek Kashyap aged about 40 years both Resident of Village Dalwali Kalan, P.O. Datarpur, District Hoshiarpur

(Plaintiffs.)

Versus

MUNIR NAZAR, Resident of H.no. 101, Guru Nanak Avenue, Hoshiarpur. Having Regd

(Defendant)

Suit for Recovery of the Damages for humiliation, Harassment and financial loss to the business caused by the defamatory remarks posted by the Defendant in the various whatsapp groups and in social media against the plaintiffs.”

X-----X-----X-----X-----X-----X-----X-----X

18. It is therefore prayed that the suit of the plaintiff may kindly be decreed in the following manner:

*(a) That the **decree of recovery of the damages from the Defendant,** for the humiliation, Harassment and financial loss caused to the Plaintiff may kindly be passed in the favour of the Plaintiffs and against the Defendant.*

(b) The costs of the suit be also awarded to the plaintiff against the defendant.

(c) Any other relief which this Hon’ble court may deem fit and proper be also granted to the plaintiff against the defendant in the interest of justice.”

7. However, on deeply scrutinizing the plaint, it is observed by this Court that in the Paragraph 17 of the plaint, a specific amount to the tune of Rs. 1 crore as damages has been quantified by the plaintiffs. For the sake of convenience, Paragraph No. 17 of the plaint is reproduced hereinbelow:

*“That the value of the suit for the purpose of court fee and jurisdiction for relief of recovery of Damages tentative court of Rs. __ __/- is affixed on the plaint. In case the hon’ble court come to the conclusion that the plaintiff is entitled for the damages of certain amount from the of the defendant, the plaintiff is undertake to pay the court fee accordingly. The plaintiffs have suffered from humiliation, Harassment and financial loss in the business, due to the defamatory remarks posted by the Defendant in the various whataapp groups and in social media against the plaintiffs, which lower down the Reputation of the Plaintiffs in the eyes of the public at large. **So the plaintiffs are entitled to recover the damages to the tune of Rs.1 crore from the defendant for his unlawful act and conduct.**”*

8. This Court has gone through the judgment of Hon’ble Apex Court in “***State of Punjab v. Dev Brat Sharma 2022(2) R.C.R. (Civil) 464=Law Finder Doc ID #1957286***” in which the Hon’ble Apex court reversed the judgment, passed by this Court setting aside the order of Ld. Trial Court directing the plaintiff therein to file the requisite court fee within 10 weeks. In that case, suit in question was for recovery of damages, on account of denial of status of freedom fighter as well as loss of reputation. Hon’ble Apex Court after going through the provisions of The Court Fees

Act, 1870 (hereinafter referred as 'The Act') came to the conclusion that a suit for compensation/damages falls in the category of Section 7(i) and not under Section 7(iv) of the Act, 1870. It was further made clear that the liberty has been provided only in the Section 7(iv) of the Act by the legislature to make a different valuation for the relief for the purpose of payment of court fees as it is almost difficult to value the claim for any of the suits covered under Section 7(iv) of the Act. For the sake of convenience, Paragraph 20, 21 and 25 of the said judgement is reproduced here below:

“20. The moot question for consideration is whether the suit in question as framed was a money suit for compensation/damages falling under Clause (i) of [Section 7](#) or was a suit falling in any of the categories specified in clause (iv) of [Section 7](#) of the Act. A reading of the relief clause would make it abundantly clear that this was a money suit for compensation/damages and not falling under any of the categories mentioned in clause (iv) of [Section 7](#) of the Act. Therefore, there would be no question at all for the applicability of [Section 7\(iv\)](#) of the Act. It would be a simple case of applicability of [Section 7\(i\)](#) of the Act and ad valorem Court-fees would have to be paid as per Schedule 1 entry 1.

21. It is only with respect to the category of suits specified in clause (iv) of [Section 7](#) of the Act that the plaintiff has the liberty of stating in the plaint the amount at which relief is valued and Court-fees would be payable on the said amount. Liberty given under clause (iv) to the specific suits of six categories is not available to the suits falling under any other clause, be it (i), (ii), (iii) etc.
Once the suit in question was a money suit for compensation and damages falling under clause (i)

of Section 7 of the Act, ad valorem Court-fees would be payable on the amount claimed.

22. to 24. X-----X-----X-----X-----X-----X-----X

25. This Court further relied upon a Constitution Bench decision of this Court in the case of *S.RM.AR.RM. Ramanathan Chettiar (supra)* reported in AIR 1958 SC 245 equivalent of 1958 SCR 1024 and quoted a paragraph from the said judgment which explains why the legislature left it open for the plaintiff to value his claim for the six categories of the suit falling under Section 7(iv) of the Act. *The basic reason was that as it was almost difficult to value the claim for any of the suits covered under Section 7(iv), therefore, for the purposes of payment of court fees, a different valuation for the relief sought could be given. All such suits were thus placed in Clause (iv) giving liberty to the plaintiff to give a separate valuation for relief sought.* However, ultimately it would be the actual relief granted which would determine the court fees to be paid and the same may be made good by the plaintiff in case lesser court fees was paid.”

9. After going through the arguments addressed by the Counsel for the petitioners and authorities cited, this Court is of the view that the present suit for recovery clearly falls in the category of suit falling under Section 7(i) of the Act in view of the law laid down by the Apex Court in **Dev Brat Sharma (supra)**. Once, it is held that the suit falls under the Section 7(i) of the Act, it would be pertinent for the petitioners/plaintiffs to affix the appropriate ad-valorem court fees as per Schedule 1 entry 1 of the Act.

10. Thus, in view of the findings given above, this Court does not find any illegality in the impugned order dated 03.03.2023 passed by the Ld.

Trial Court and the same **is worth to be maintained.**

11. Accordingly, **revision petition stands dismissed.**

(SANJAY VASHISTH)
JUDGE

August 04, 2023
Lavisha

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*