

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(111)

CM No. 6164-CII-2023 in/and
CR No. 2599 of 2021
Date of Decision : 12.04.2023

Advocate Radhey Shyam

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Munish Mittal, Advocate for the petitioner.

Ms. Vibha Tewari, Assistant Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

CM No. 6164-CII-2023

Present application has been filed for recalling the order dated 21.03.2023 and to pass appropriate order on merit.

Learned counsel for the applicant-petitioner submits that the client intended to obtain an order on merit hence, the order dated 21.03.2023 by which, the present civil revision petition was disposed of having been not pressed, may kindly be recalled and civil revision petition may kindly be restored to its original number and decided on merit.

Notice of the application to counsel for the respondents.

Ms. Vibha Tewari, learned Assistant Advocate General,

Haryana, who is present in Court, accepts notice on behalf of the

respondents and raises no objection for the grant of prayer as made in the present application.

Keeping in view the above, the present civil revision petition is restored to its original number.

Keeping in view the joint request made by learned counsel for the parties, the present civil revision petition is taken up for hearing.

CR-2599-2021

Learned counsel for the petitioner argues that the impugned order dated 08.09.2021 (Annexure P-12), which has been passed by the trial court by which the application filed by the respondent-State under Order 7 Rule 11 CPC has been allowed, is contrary to the settled principle of law and has been passed without appreciating the facts of the present case in correct perspective. Learned counsel for the petitioner submits that the petitioner had filed a civil suit claiming the compensation to the tune of ₹2 crore or above as determined ultimately in the civil suit. Learned counsel argues that the amount of ₹2 crore was only a tentative amount and could not have been taken into account for assessing the amount of court fee hence, the impugned order passed by the trial court accepting the plea of the respondent-State that on the amount of ₹2 crore, as being claimed as a compensation/damages, the ad-valorem court fee was required to be paid, is liable to be set-aside.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is a conceded position, which is also clear from para 34A of the suit that the prayer of the petitioner-plaintiff is for grant of ₹2 crore as

compensation or more as to be quantified by the court along with interest @ 24% per annum. Though the amount of ₹2 crore is claimed but it is being stated that the said amount is only tentative, the petitioner can be entitled for more, if court finds him entitled for while deciding the suit. It is a conceded position that the court fee of ₹200/- has only been affixed along with the suit and not for the amount of damages/compensation claimed.

As per the judgment of the Hon'ble Supreme Court in Civil Appeal No. 2064 of 2022 titled as ***State of Punjab and others Vs. Dev Brat Sharma***, decided on 16.03.2022, even where damages are claimed, the ad-valorem court fee is to be payable upon the damages claimed. The relevant paragraph 21 of the said judgment is as under :-

“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.”

At this stage, learned counsel for the petitioner submits that the amount of ₹2 crore is a tentative amount and, therefore, no court fee on the said amount was liable to be affixed. It may be noticed that even in ***Dev Brat Sharma's case (supra)***, a sum of ₹20 lac was claimed as a tentative amount but Hon'ble Court held that the amount of court fee required to be deposited for the amount of compensation claimed i.e. ₹20 lac. Learned

counsel for the petitioner has not been able to rebut the said contention.

Keeping in view the above, it cannot be said that the order passed by the trial court, which has been impugned in the present civil revision petition is either contrary to the facts on record or is against the settled principle of law.

Keeping in view the above, no interference is called for by this Court in the present civil revision petition and the same is accordingly dismissed.

April 12, 2023
kanchan

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No