

CR-2804 of 2021 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2804 of 2021 (O&M)
Reserved on: 24.11.2023
Pronounced on: 18.12.2023

Bablu alias Suresh
.....Petitioner

Versus

Jai Bhagwan and others
.....Respondents

CR-2806 of 2021 (O&M)

Wazir
.....Petitioner

Versus

Jai Bhagwan and others
.....Respondents

CR-2835 of 2021 (O&M)

Hardeva
.....Petitioner

Versus

Jai Bhagwan and others
.....Respondents

CR-2837 of 2021 (O&M)

Ramesh
.....Petitioner

Versus

Jai Bhagwan and others
.....Respondents

CR-2804 of 2021 (O&M)

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: Mr. Ajit Sihag, Advocate,
for the petitioner(s).

Ms. Neha Rana, Advocate,
for the respondents.

NAMIT KUMAR, J.

1. By way of this order, I shall dispose of above-referred four revision petitions as common question of law and facts are involved in these petitions. For the sake of brevity, facts are being taken from Civil Revision No.2804 of 2021.

2. Through this revision petition under Article 227 of the Constitution of India petitioner-Bablu alias Suresh has challenged the order dated 21.10.2021 passed by the Court of learned Civil Judge (Junior Division), Sub Division Hansi, District Hisar, whereby application filed by the respondent-defendants under Order 7 Rule 11 read with Section 151 CPC has been allowed and the petitioner-plaintiff has been directed to affix court fee within one month from the date of passing of the order.

3. Briefly stated, petitioner-plaintiff filed a suit for damages/compensation to the tune of Rs.20 lacs on account of defamation caused/committed by the respondent-defendants to him with the intent to malign his reputation, image and prestige in the eyes of his relatives, friends, professional colleagues and in the locality by way of illegally, maliciously and fraudulently trapping the petitioner-plaintiff in a false and frivolous case in which he was given clean chit at every stage of proceedings and prosecution against him was

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terminated upto this Court on the basis of oral as well as documentary evidence of every description. During the pendency of civil suit, respondent-defendants filed an application under Order 7 Rule 11 read with Section 151 CPC for rejection of the plaint on account of non-affixation of proper court fee. Petitioner filed reply to the said application. Trial Court vide impugned order dated 21.10.2021 allowed the said application, however, petitioner was given chance to make good the deficiency in court fee within one month from the date of passing of the impugned order. Hence, instant revision petition.

4. Learned counsel for the petitioner contended that even in case of claim of a liquidated amount of damages framed in a suit, the court fees is to be affixed after the Court has determined the amount of damages payable to the plaintiff. Hence, it is submitted that the Court below has wrongly allowed the application filed by the respondents under Order 7 Rule 11 CPC and has wrongly required the petitioner to pay *ad valorem* court fees on the amount of damages claimed in the plaint. In support of his contentions, learned counsel placed reliance on the judgments of this Court in ***Manpreet Singh v. Gurmail Singh and others, 2017(1) R.C.R.(Civil) 230; Sachin Sharma v. Indu Sharma and others, 2022(4) R.C.R.(Civil) 774*** and ***Civil Revision No.6759 of 2018 – Kashmir Singh v. Mandeep Kaur and others*** – decided on 05.10.2018.

5. On the other hand, learned counsel for the respondents supported the impugned order by contending that once the petitioner

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himself has quantified the amount of damages, he was required to affix *ad valorem* court fee at least on the amount claimed.

6. I have heard learned counsel for the parties and perused the record.

7. Court fee in a suit for damages is payable under Section 7(i) of the Court Fees Act, 1870, as per the amount claimed. Section 7(i) of the Act is reproduced hereunder for reference: -

“7. Computation of fees payable in certain suits.- The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows: -

for money. – (i) In suits for money (including suits for damages or compensation, or arrears of maintenance of annuities, or of sums payable periodically) – according to the amount claimed;”

8. Hon’ble Supreme Court in ***State of Punjab and others v. Dev Brat Sharma, 2022(2) R.C.R.(Civil) 464*** while dealing with a similar issue has held as under: -

“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.”

9. A perusal of the plaint clearly shows that a specific claim of Rs.20 lacs as damages has been made therein. However, it is only while fixing value of the suit for the purposes of jurisdiction and court fee, it has been tentatively assessed at Rs.20 lacs and Court fee of Rs.200/- has been affixed. Once the amount of damages claimed has been specifically quantified in the plaint, court fee was required to be affixed on that specified amount. On the contrary, allowing any such affixation of court fee as claimed by the petitioner, would amount to a conscious departure from the mandate of Section 7 (i) of the Act which clearly enjoins affixation of court fee according to the amount claimed.

10. As regards the judgments relied upon by learned counsel for petitioner, in view of the exposition of law detailed hereinabove as well as in the facts and circumstances of the present case, the same are not applicable.

11. Learned counsel for the petitioner has not been able to point out any illegality or perversity in the impugned order(s), which is perfectly valid. Hence, the revision petitions are dismissed. The

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impugned order dated 21.10.2021 passed by the trial Court is upheld.
However, petitioner is granted two months’ time to make good the
deficiency in court fee.

12. Interim orders dated 16.11.2021 and 22.11.2021 stand
vacated.

18.12.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No