

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

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CR-5829-2022

Date of decision: 07.11.2023

Daljinder Kaur and others

....Petitioners

Versus

Taranjit Singh and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Rajesh Bhatheja, Advocate for the petitioners.

AMARJOT BHATTI, J.

1. The petitioners have filed the present civil revision under Article 227 of the Constitution of India for setting aside the impugned order dated 19.09.2022 passed by learned Civil Judge (Junior Division), Moga vide which the plaint was rejected under Order 7 Rule 11 CPC for non-compliance of the orders of the learned trial Court vide which the petitioner was directed to affix *ad valorem* court fee.

2. Learned counsel for the petitioners argued that the plaintiff had filed suit for possession as owner of house measuring 5 marlas bearing khasra numbers as detailed in the head note of the plaint. He had also sought the relief of permanent injunction. The copy of plaint is Annexure P-1. In that case the respondent No.1 appeared and filed application under Order 7 Rule 11 read with Section 151 of CPC for rejection of plaint as allegedly the *ad valorem* court fee was not deposited. The copy of application is Annexure P-2. Reply to the said application was filed denying the averments. However, the learned trial Court vide order dated 05.07.2022 allowed the application giving one opportunity to the present petitioner to deposit *ad valorem* court fee on or before 10.08.2022. Copy of order is Annexure P-3. Thereafter, the case was again adjourned to deposit *ad valorem* court fee. On 19.09.2022 on

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account of inability on the part of present petitioner to deposit the *ad valorem* court fee the plaint was rejected by passing impugned order dated 19.09.2022. The learned counsel for the petitioner submitted that he may be given a week's time to deposit the *ad valorem* court fee as per the directions of learned trial Court.

3. I have considered the stand taken by the petitioner. He has not disputed the order vide which he was directed to deposit the *ad valorem* court fee on the plaint. The learned trial Court granted two opportunities for the compliance of the order but when the present petitioner failed to deposit the *ad valorem* court fee, the plaint was rejected by invoking the provisions of Order 7 Rule 11 CPC. The copy of plaint is Annexure P1 which clearly shows that the plaintiffs had filed suit for possession as owner of the house measuring 5 marlas which is $\frac{1}{2}$ share of khasra number as detailed in the plaint along with the consequential relief of permanent injunction. The plaintiffs had based their claim on the basis of registered Will dated 16.05.2012.

I have considered the nature of litigation. It is in the interest of justice that the case is decided on merits, therefore, taking a lenient view the impugned order dated 19.09.2022 is set aside subject to the condition that the petitioner will deposit *ad valorem* court fee as per the directions of learned trial Court within 10 days from today.

Accordingly, the present civil revision stands disposed of. Pending application(s), if any, stands disposed of accordingly.

07.11.2023

Sunil Devi

(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No