

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CR-7493-2023

Date of Decision: 13.12.2023

Punjab & Sind Bank

....Petitioner

VERSUS

M/s Manglam Recycling Limited and another

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Parunjeet Singh, Advocate,
for the petitioner.

KARAMJIT SINGH, J.

Present civil revision petition has been filed by the petitioner/defendant against order dated 28.8.2023 (Annexure P-4) passed by the Court of Civil Judge, Junior Division, Ludhiana whereby an application filed by the petitioner under Order 7 Rule 11 CPC (Annexure P-2) seeking rejection of the plaint on the ground of non-payment of ad valorem Court fee, has been dismissed in Civil Suit No.2372 of 2020 titled as M/s Manglam Recycling Limited v. Punjab and Sind Bank and another.

2. Counsel for the petitioner submits that the respondents filed suit for damages worth ₹ 10 crores against the petitioner on account of loss and defamation caused by the petitioner to the respondents. It is further submitted that value of the suit for purpose of jurisdiction was assessed as ₹ 10 crores and Court fee of ₹ 500/- was affixed by saying that tentative value of the suit for purpose of Court fee is ₹ 5000/- only. Counsel for the petitioner further submits that the amount of damages claimed has been specifically quantified as ₹ 10 crores by the respondents in the plaint; that as

per law laid down by Hon'ble Supreme Court in **State of Punjab and others v. Dev Brat Sharma**; 2022(2) RCR (Civil) 464, *ad valorem* Court fee is payable on amount of damages claimed in a suit for recovery filed by the plaintiffs claiming damages. Counsel for the petitioner has also placed reliance upon judgment of Coordinate Bench of this Court in **Japna Dhillon v. Sukhbir Singh Waraich**, CR-2784-2021 decided on 17.4.2023 in support of his contentions.

3. I have considered the submissions made by the counsel for the petitioner and gone through copy of plaint (Annexure P-1) and impugned order (Annexure P-4).

4. It is settled law that for purpose of deciding an application filed under Order 7 Rule 11 CPC, only averments made in the plaint are to be taken into consideration. From the perusal of the plaint (Annexure P-1), it could be easily made out that the respondents have claimed damages worth ₹ 10 crores and the said amount of damages has been quantified even in the body of the plaint as the respondents specifically pleaded that they are entitled to damages of ₹ 10 crores on account of harassment suffered by them during the period of 7 years. On perusal of impugned order (Annexure P-4), it is apparent that while passing the said order, learned trial Court has overlooked the judgment of Hon'ble Supreme Court in **Dev Brat Sharma's case** (supra) wherein it has been held that in a suit for recovery, as damages, *ad-valorem* Court fee would be payable on the amount of damages claimed. Even Coordinate Bench of this Court in **Japna Dhillon's case** (supra), while placing reliance upon the ratio laid down in **Dev Brat Sharma's case** (supra), has directed the plaintiff therein to pay *ad-valorem* Court fee on the

5. In light of the aforesaid settled position of law, impugned order being erroneous, is hereby set aside and the matter is remanded back to the learned trial Court to decide the same afresh in light of law as has been discussed above, after hearing both the parties. The petitioner is directed to appear before the learned trial Court on the date already fixed in the civil suit.

(KARAMJIT SINGH)
JUDGE

December 13, 2023

Paritosh Kumar

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