

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**109****CR No.225 of 2024 (O&M)
Reserved on : 16.04.2024
Pronounced on : 24.04.2024**

Nirmal Dass

....Petitioner

VERSUS

Tarsem Dass

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Hitesh Ghai, Advocate for the petitioner.

ALKA SARIN, J.

1. The present revision petition being filed under Article 227 of the Constitution of India challenges the order dated 16.11.2023 passed by the Trial Court whereby the application under Order VII Rule 11 CPC filed by the defendant-petitioner for rejection of the plaint was dismissed.

2. The plaintiff-respondent herein filed a suit for recovery of Rs.49,40,000/- as principal amount alongwith interest @ 12% per annum from 24.12.2018 till filing of the suit alongwith future interest @ 12% per annum from the date of filing of the suit till realization. Court fee was affixed on the principal amount claimed. The defendant-petitioner filed an application for rejection of the plaint on the ground that the plaintiff-respondent had not affixed court fee on the interest claimed @ 12% per annum from 24.12.2018 to 25.10.2021 i.e. the date of filing of the suit. A reply was filed by the plaintiff-respondent to the said application. The application was dismissed vide impugned order dated 16.11.2023. Hence, the present revision petition.

3. Learned counsel for the defendant-petitioner would contend that the application ought to have been allowed as the plaintiff-respondent had not affixed court fee on the interest claimed in the plaint i.e. from 24.12.2018 till the filing of the suit on 25.10.2021. In support of his argument, learned counsel for the defendant-petitioner has relied upon the decision by the Supreme Court in **State of Punjab & Ors. vs. Dev Brat Sharma [2022(2) RCR (Civil) 464]**, a decision of the Delhi High Court in **Rajinder Singh Bhatia vs. Manju Bhatia [2023(2) RCR (Civil) 268]** and a decision of our High Court in **FMI Ltd. Vs. Annapurna Food Association [2022(4) RCR (Civil) 526]**.

4. Heard.

5. In the present case the case set up in the plaint is that the defendant-petitioner had borrowed Rs.49,40,000/- on different dates from the plaintiff-respondent. Paras 12 and 13 of the plaint read as under :

“12. That the defendant is in default of sum of Rs.49,40,000/- for the amount borrowed by him from the plaintiff time to time. Thus, the defendant is liable to make payment of said amount to the plaintiff and the plaintiff is entitled to the relief of recovery prayed for.

13. That furthermore, since the defendant has failed to make the payment on time to the plaintiff, thus the defendant is also liable to pay interest @ 12% per annum upon the delayed payment to the plaintiff. Thus, plaintiff is also entitled to the relief of interest prayed for.”

Alongwith the plaint, court fee on the principal amount of Rs.49,40,000/- was affixed.

6. On 20.07.2022 the defendant-petitioner filed the application for rejection of the plaint on the ground that court fee had not been affixed on the interest claimed in the plaint. The plaintiff-respondent filed a reply to the said application. On 17.10.2023 the counsel for the plaintiff-respondent suffered a statement that he restricts his claim for recovery of the suit amount for which court fee has been affixed, but reserves his right to claim interest as per law. On 16.11.2023 the application was dismissed by the Trial Court. The plaintiff-respondent has admittedly affixed the court fee on the principal amount of Rs.49,40,000/- claimed in the plaint. There is no assessment of the interest which has been given by the plaintiff-respondent in the plaint. In the heading of the plaint as well as in the prayer clause, only interest @ 12% per annum has been claimed from 24.12.2018 till the filing of the suit. The counsel for the plaintiff-respondent has also made a statement before the Trial Court that he restricts his claim for recovery of the suit amount on which court fee has been affixed, but reserves his right to claim interest as per law. It is trite that the payment of *ad valorem* court fees is a matter between the plaintiff and the Court and a plaintiff can be directed to pay the court fees as assessed after the relief is granted. There is no quantification of the interest component by the plaintiff-respondent. The Trial Court may or may not grant any interest if the suit of the plaintiff-respondent is decreed. The percentage of interest which may ultimately be awarded by the Trial Court is also not certain.

7. The ratio of the judgments cited by the learned counsel for the defendant-petitioner would not be applicable in the present case inasmuch as in the said cases the suits were held to be in effect suits for recovery of a certain amount on which *ad valorem* court fee was liable to be affixed. There was no *ad valorem* court fee affixed on the quantified amount claimed in those cases. None of the cases cited pertain to court fee on the interest claimed in the plaint.

8. In view of the above, the impugned order dated 16.11.2023 cannot be faulted with. There is no illegality or irregularity in the impugned order. The present revision petition, being devoid of any merits, is accordingly dismissed. Pending applications, if any, also stand disposed off.

24.04.2024

jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No