

135 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-860-2023(O&M)
Date of decision :04.04.2024

Parveen Chand

...Petitioner

Vs.

Munish Kumar

...Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashok Bhardwaj, Advocate
for the petitioner.

None for the respondent.

ANIL KSHETARPAL, J. (Oral)

1. Despite service of notice upon the respondent, he has not chosen to enter appearance. In substance, the petitioner (defendant before the trial Court) complains that the plaintiff has not affixed *ad valorem* Court fee calculated amount on the market value of the property for the relief of possession and recovery of *mesne* profits for use and occupation of the property.
2. Learned counsel representing the petitioner while referring to para 2 of the reply filed by the respondent/plaintiff on 04.10.2022(Annexure P-3), has submitted that though, the plaintiff while filing the suit has claimed that the value of the suit for the purpose of Court fee and jurisdiction for the relief of possession is Rs. 1,50,000/- on which proper Court fee of Rs. 7,100/- is payable, however, the same has not been paid and the Court has wrongly noticed that proper Court fee on the relief of possession has been paid. He

further submits that the amount of mesne profit with respect to period before filing of the suit has been claimed @ Rs.5,000/- per month from 01.11.2019, hence, the Court fee is liable to be paid on aggregate amount calculated upto the filing of the suit from 01.11.2019.

3. This Court has considered the submission of the learned counsel representing the petitioner.

4. It is evident that the trial Court has noticed that the plaintiff has already paid Court fee on the relief of possession as per value of the property, however, there appears to be some substance in the plea of the learned counsel particularly in view of the assertions made by him in para 2 of his reply dated 04.10.2022 (Annexure P-3).

5. Keeping in view the aforesaid facts, the impugned order is set aside while directing the Presiding Judge of the trial Court to decide the application afresh after taking note of the aforesaid fact. This Court has not expressed any opinion on the second contention of the learned counsel representing the petitioner, however, the trial Court will decide the same in accordance with law. Let a fresh order be passed by the trial Court within one month from the date of receipt of certified copy of the order.

6. Disposed of.

		(ANIL KSHETARPAL)	
		JUDGE	
04.04.2024	Whether speaking/reasoned :	Yes	No
neeraj	Whether Reportable :	Yes	No