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2024:PHHC:061007

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

Civil Revision No.2395 of 2024

Date of decision: 01.05.2024

Kuldeep Singh

.... Petitioner

Versus

Darshan Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Ramesh Sharma, Advocate, for the petitioner.

GURBIR SINGH, J.

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 20.01.2024 (Annexure P-6) passed by learned Additional Civil Judge (Senior Division), Nakodar, District Jalandhar, whereby the applications moved by the respondents-defendants under Order 7 Rule 11 CPC have been allowed and the petitioner-plaintiff has been ordered to pay ad valorem court fee on the value of the suit land.

2. The parties herein are being addressed as per their original status in the suit.

2.1 The brief facts which are necessary for the disposal of present revision petition are that the plaintiff filed a suit for specific performance of agreement to sell dated 25.01.2016 executed by defendants No.1 and 2 through defendant No.2 in favour of plaintiff in respect of land 109 kanals 10 marlas, with a further direction to defendants No.1 and 2 to execute sale

deed @ Rs.16 lakhs per acre after receiving Rs.2,09,00,000/- and adjusting Rs.10 lakhs paid as earnest money. It has also been prayed that sale deed dated 18.10.2016 executed by defendants No.1 and 2 in favour of defendants No.4 to 6 regarding suit land and mutation sanctioned on the basis of said alleged sale deed and further transfer deed of ownership executed by defendant No.6 in favour of defendants No.7 and 8 be declared null and void being the result of fraud and misrepresentation and in the alternative, suit for recovery of Rs.10 lakhs.

2.2 Notice in the suit was issued and during pendency, defendant No.3 moved an application under Order 7 Rule 11 CPC read with Section 151 CPC for rejection of the plaint on the ground that plaintiff had not affixed proper court fee. Defendants No.4 to 8 also moved application under Section 7(10) of Court Fees Act and Section 149 CPC as well as Order 7 Rule 11 CPC for considering the valuation of the suit land and to affix requisite court fee on the plaint.

2.3 Vide impugned order, said applications were disposed of and the plaintiff has been directed to pay ad valorem court fee on the value of the suit property. Aggrieved against the said order, plaintiff has approached this Court by way of present revision petition.

3. Learned counsel for the petitioner-plaintiff has argued that the petitioner-plaintiff has paid the court fee on the earnest money paid by the plaintiff to defendants No.1 and 2 through defendant No.3 and the plaintiff

has sought alternative relief of Rs.10 lakhs, so the plaintiff is only entitled to pay the court fee on Rs.10 lakhs.

4. I have heard the submissions of learned counsel for the petitioner and have gone through the file.

5. According to Section 15 of CPC, every suit is to be instituted in the court of the lowest grade competent to try it. The long title to the Suits Valuation Act, 1887 (hereinafter referred to as the “SVA”) states that it is a legislative enactment to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of courts with respect thereto. From the statement of objects and reasons of the Court Fees Act, 1870 (hereinafter referred to as the “CFA”), it can be made out that the pivot of this legislation caters to the idea of payment of fees for adjudication of the cases. Ordinarily, pecuniary jurisdiction of a court is determined based on the interplay between the provisions of the CFA and the SVA. For determining the amount of court fees that is to be paid for claiming the relief of specific performance of a contract of sale, the governing provision of law is Section 7 (x) (a) of the CFA, and the same states that in suits for specific performance of a contract of sale, the court fees payable has to be according to the amount of the consideration. Moreover, to determine the jurisdiction of the court in which such a suit for specific performance is to be instituted, Section 8 of the SVA is to be looked into. Section 8 of the SVA reads as under:-

"Where in suits other than those referred to in the Court-fees Act, 1870 (7 of 1870), section 7, paragraphs V, VI and IX,

and paragraph X, clause (d), Court-fees are payable ad valorem under the Court-fees Act, 1870 (7 of 1870), the value as determinable for the computation of Court-fees and the value for purposes of jurisdiction shall be the same."

Thus, it can be culled out as under:

- i. The valuation of the suit for the relief of specific performance of an agreement, for the purposes of court fees and jurisdiction has to be the same.
- ii. In a suit for the relief of specific performance, the valuation of the suit for the purpose of court fees, in fact, determines the jurisdiction (pecuniary) of the court before which the matter has to be listed for adjudication.

5.1 In case *Laxmi Narayan Versus Navneel & Ors, 2017 SCC Online Del 7863*, it has been held that:-

- i. The amount of court fees that is to be paid in a suit for specific performance of contract has to be based on the value of the contract.
- ii. On the basis of the amount on which court fees is computed, the pecuniary jurisdiction of the court is determined."

5.2 The court fee is required to be fixed as per the valuation of the land to be purchased by the plaintiff. Counsel for the petitioner-plaintiff has failed to point out that court fee as assessed in the impugned order is wrong.

Since the plaintiff has filed the suit for specific performance for purchasing a particular piece of land at a particular rate, so the value of the suit is taken to be the value of property as mentioned in the agreement and the plaintiff is liable to pay the court fee accordingly.

6. In view of above, this Court finds that there is no illegality in the order passed by the trial Court. The revision petition is without merit and it is dismissed in limine accordingly.

(GURBIR SINGH)
JUDGE

May 01, 2024

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No