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

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Date of Decision: 23.08.2024

Shamsher Singh

....Petitioner

Versus

Sham Lal and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Nafis Ahmad, Advocate for
Mr. Lalit Mohan Barara, Advocate
for the petitioner.

VIKAS SURI, J.(Oral)

1. This revision petition has been filed under Article 227 of the Constitution of India for setting aside order dated 26.07.2024 (Annexure P-4), passed by trial Court, whereby the application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (for short, 'CPC') filed by respondent-defendant Nos.1 to 4 (hereinafter referred to as 'defendants') was disposed of with the direction to the petitioner-plaintiff (hereinafter referred to as 'plaintiff') to make good the deficiency in court-fees by 09.08.2024, failing which the plaint was to be rejected.

2. The facts in brief are that the plaintiff filed a suit for recovery of Rs.5,00,000/- as compensation along with interest @ 18% per annum on account of causing harm to his reputation and for defaming him amongst his



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co-villagers, kith and kin, colleagues etc., by filing a vexatious suit levelling false and baseless allegations, which was dismissed as withdrawn after more than two years.

2.1 An application under Order 7 Rule 11 CPC was filed by the defendants, seeking a direction to the plaintiff to affix *ad valorem* court fee on the amount claimed qua damages, and further praying that, in default thereof, the plaint be rejected.

3. Upon notice, the plaintiff opposed the application by filing reply and submitted that proper court fee had already been affixed on the value of suit. It was further submitted that the question of affixing court fee is a matter between the plaintiff and the Court, and that if any deficiency is found, the Court may at any stage before passing the decree, direct the plaintiff, to make good the requisite court fee.

4. After perusing the record and considering the rival contentions advanced by both the sides, the trial Court disposed of the application by directing the plaintiff to make good the deficiency in court fee by the specified date, failing which the plaint was to be rejected.

5. Aggrieved by the said order, the plaintiff is before this Court by way of the present petition.

6. Learned counsel for the petitioner has argued that the proper court fee on the suit, has already been affixed and hence, seeks that the impugned order dated 26.07.2024 (Annexure P-4) be set aside.

7. It would be apposite to refer to the prayer made in the suit, which reads thus:-



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“In view of the submissions made above, it is, therefore, respectfully prayed that a decree of Rs.5,00,000/- (Rupees Five Lacs only) on account of compensation for causing damages by filing false suit titled as “Sham Lal and others Vs. Shamsheer Singh and others” by imputing false and baseless allegations for defaming the plaintiff in the Villagers, kith and kins, colleagues, etc. and after more than two years later the defendants got the same decided dismissed as withdrawn vide order dated 02.08.2017, alongwith interest at the rate of 18% per annum from the date of withdrawal of false suit, till the date of payment, on the basis of oral and documentary evidence; may kindly be passed in favour of the plaintiff and against the defendants with costs of the suit.

And any other relief to which this Hon’ble Court deems the plaintiff entitled to in the facts and circumstances of the present case may also be granted in favour of the plaintiff and against the defendants, in the interest of justice, law and equity.”

8. The relevant provisions of the Court-Fees Act, 1870 (for short, ‘the 1870 Act’), reads thus:-

“7. Computation of fees payable in certain suits.—The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:

for money.—(i) In suits for money (including suits for damages or compensation, or arrears of maintenance, of annuities, or of other sums payable periodically) — according to the amount claimed.

* * *

(iv) In suits—

for movable property of no market-value:

(a) for movable property where the subject-matter has no market-value, as, for instance, in the case of documents relating to title,

to enforce a right to share in joint family



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property: (b) to enforce the right to share in any property on the ground that it is joint family property,

for a declaratory decree and consequential relief: (c) to obtain a declaratory decree or order, where consequential relief is prayed,

for an injunction: (d) to obtain an injunction,

for easements: (e) for a right to some benefit (not herein otherwise provided for) to arise out of land, and

for accounts: (f) for accounts—

according to the amount at which the relief sought is valued in the plaint or memorandum of appeal;

In all such suits the plaintiff shall state the amount at which he values the relief sought;”

9. It is not disputed that the plaintiff has filed a suit for recovery of Rs.5,00,000/- as compensation on account of damages. The quantum of damages claimed has been specifically quantified in the plaint. The issue of fixation of court fee in a suit for damages, where the damages stand quantified, is no longer *res integra*. The Hon’ble Supreme Court in ***State of Punjab and others vs. Dev Brat Sharma***, (2022) 13 SCC 221, held that in money suits falling under the category of Section 7 (i) of the 1870 Act, the valuation for the purposes of jurisdiction and relief is to be the same. It is only in category of suits covered by clause (iv) of Section 7 of the Act *ibid* that two different valuations, one for the purposes of jurisdiction and another for relief, are permissible.



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10. In the present case, a plain reading of the relief clause makes it abundantly clear that it is a money suit for compensation/damages and does not fall under any of the categories mentioned in the clause (iv) of Section 7 of the 1870 Act, extracted hereinabove. The case at hand, is thus, one attracting the applicability of Section 7(i) of the 1870 Act and, accordingly *ad valorem* court fee would have to be paid, as per the Schedule.

11. In view of the aforesaid, this Court finds no infirmity or perversity in the impugned order, whereby the plaintiff has been directed to make good the deficiency in court fee, failing which the plaint is liable to be rejected.

12. At this stage, learned counsel for the petitioner submits that the petitioner seeks one opportunity to make good the deficiency in court fee, the time originally granted for the said purpose has since lapsed. It is pointed out that the court fee was to be deposited by 09.08.2024, on which date the learned Presiding Officer was on leave and the proceedings were adjourned to 22.08.2024. It is further submitted that no substantial proceedings transpired on the said date and that the matter is now pending before the trial Court for 27.09.2024.

13. Keeping in view the aforesaid, the prayer made by learned counsel for the petitioner seeking enlargement of time to make good the deficiency in court fee, appears to be reasonable. The petitioner ought not to be non-suited on technicalities, when he has undertaken to make good the deficiency in court fee. Accordingly, the petitioner-plaintiff is permitted to deposit the deficient court fee, failing which the plaint shall be rejected



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forthwith.

14. The revision petition is disposed of in the aforesaid terms.

August 23, 2024
Varinder

(VIKAS SURI)
JUDGE

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