



CR-7208-2019 (O&M)

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

CR-7208-2019 (O&M)

Date of decision : 04.12.2024

Bhan Singh**..... Petitioner**

versus

Punjab State Co-operative Marketing Federation Ltd. and another**..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Vikas Bali, Advocate
for the petitioner.

Mr. Ankit Chowdhri, Advocate for
Mr. P.I.P. Singh, Advocate
for the respondent.

PANKAJ JAIN, J. (Oral)

1. Challenge is to the order dated 09.10.2019, passed by Civil Judge (Jr. Divn.), Nabha whereby application filed by the defendant under Order 7 Rule 11 CPC stands allowed subject to payment of ad valorem court fee.

2. Plaintiff filed suit seeking recovery of more than Rs. 1 crore as damages caused to the plaintiff on account of orders passed by the defendant which led to blackmailing of the plaintiff and thereby causing loss in business etc. In para 17 while evaluating the suit for the purpose of Court fee, plaintiff assessed tentative value of suit at Rs.500/- and thereupon fix a Court fee of Rs.50/-.

3. Defendant filed application under Order 7 Rule 11 Code of Civil Procedure claiming that the suit was not maintainable having not



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been properly valued. The Trial Court while allowing the said application asked the plaintiff to pay ad valorem court fee at least at an amount of Rs.1 crore as claimed. Plaintiff assails the aforesaid order. Mr. Bali submits that since the plaintiff has not evaluated and quantified the damages in certain terms and thus is not required to pay ad valorem court fee. The argument raised is against the record. Para 13 of the plaint and the prayer clause read as under:-

“13. That the plaintiff had requested the defendants several times to compensate him for the damages caused on account of the order passed by the defendants, at least to the tune of more than crore rupees by way of damages.

xx xx

It is, therefore, prayed that a decree be passed for more than Rs.1 crore or the amount which may this Hon’ble Court fit and proper alongwith future interest @ 18% per annum from the date of filing of the present suit till its realization in favour of the plaintiff and against the defendants.”

4. While dealing with the similar issue, this Court in CR No.4039 of 2023 decided vide order dated 18.09.2024, tiled as ‘Hardip Singh vs. Daya Singh’ observed as under:-

“xx xx xx

7 The first issue that arises from the rival contentions raised by counsel for the parties is whether the suit needs to be evaluated for the purpose of Court fee in terms of Section 7 of the 1870 Act or as per Schedule II that deals with fixed fee. Section 7(i) of the 1870 Act deals with the money suits and the same reads as under :-

*“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;”*



8 Bare perusal of the aforesaid provision would reveal that wherever suit has been maintained for claiming money decree (including suits for damages or compensation, or arrears of maintenance, of annuities, or of other sums payable periodically) the suit will be governed by Section 7(i) of the 1870 Act and the plaintiff is under obligation to pay Court Fee according to the amount claimed. So far as Schedule II Article 17(vi) is concerned, that specifically provides that the provision would be applicable only where there is no provision provided under the Act. Trite it is that for purpose of evaluating the value of the suit and for adjudicating upon application under Order 7 Rule 11 CPC the Court has to evaluate the plaint as a whole. In the present case the relevant parts of the plaint read as under :-

Prayer clause

“Suit for Recovery of money for damages and compensation on account of false, baseless, malicious, long and unwarranted litigation thrust upon the plaintiff by the defendant as well as bodily suffering, mental pain, agony & harassment caused to the plaintiff by the defendant by indulging him into above mentioned malicious litigation.

1. That the plaintiff is permanent resident of the address as stated in the title of the plaint. The plaintiff is hereby applying for the grant of compensation on account of false, baseless, malicious, long and unwarranted litigation thrust upon the plaintiff by the defendant as well as bodily suffering, mental pain, agony & harassment caused to the plaintiff by the defendant by indulging him into the following mentioned malicious litigation with malafide intention just to harass him unnecessarily by ruining his future, thus the plaintiff reserve his legal right to claim unliquidated damages from the defendant on account of indulging him into false and unwarranted litigation without any basis.

7. That the plaintiff suffered physically, mentally monetary loss by the said malicious



prosecution/litigation for getting the justice and it was absolutely thrust upon plaintiff by the defendant. By this long, false, baseless and malicious litigation the plaintiff had to spent huge amount i.e. more than Rs.50 Lakh in travelling, evidence, food and medical treatment. The defendant had bad intention against the plaintiff. Although no amount is sufficient for suffering the plaintiff and other family members due to act of the defendant & severe mental and physical pain caused by the defendant.

10. That the value of the subject matter of the suit for the purpose of court fee and jurisdiction is tentatively assessed as Rs.500/- because the suit being recovery of money on account of compensation and damages, causing physical and mental harassment, tension, torture agony and irreparable loss etc. for malicious prosecution which cannot be assessed at the filing the present suit and yet to be assessed by the Hon'ble court at the time of passing decree. The plaintiff undertakes to pay the advalourm court fee as directed by this Hon'ble court at the time of passing of a decree of Judgment.”

9 From the prayer clause, it is evident that the plaintiff seeks decree for recovery of money for damages and compensation. Thus this Court has no doubt that the suit being money suit would be governed by provision as contained under Section 7(i) of the 1870 Act and not Schedule II.”

5. Applying the aforesaid test to the present case, it is evident that the least amount that the plaintiff has claimed is Rs.1 crore and is thus required to pay ad valorem court fee thereupon in terms of Section 7(i) of the Court Fee Act, 1870.

6. In view of above, finding no legal infirmity in the order passed by the Trial Court, the present revision petition is ordered to be dismissed.



7. At this stage counsel for the petitioner submits that in view of observations made by Supreme Court in the case of ***State of Punjab Vs. Jagdip Singh Chowhan*** passed in Civil Appeal No.3987 of 2006 dated 29.05.2012 plaintiff be granted liberty if so advised to seek amendment before the trial Court restricting his claim to the amount on which the Court fee has been paid or may enhance the claim beyond the said amount by paying ad-valorem Court fee on the same.

8. Finding it to be a fair request and in view of the following observations made by Supreme Court in ***Jagdip Singh Chowhan's case supra*** the aforesaid liberty is granted to the plaintiff.

9. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

04.12.2024

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No