



CR-6952-2024

1

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-6952-2024

Date of decision : 29.11.2024

Janak Raj Dogra and others

... Petitioners

Versus

Sohan Lal and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Dinesh Mahajan, Advocate
for the petitioners.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the order dated 10.10.2024 (Annexure P-5) passed by the trial Court vide which the application filed by the petitioners-defendants to issue directions to plaintiffs-respondents no.1 to 4 to affix the ad-valorem court fee has been dismissed.

2. Learned counsel for the petitioners has submitted that since in the present case, suit for declaration with respect to the share of the plaintiffs in the suit property has been sought along with joint possession, thus, the plaintiffs are required to pay ad valorem court fee, which has not been paid in the present case. It is submitted that the trial Court has wrongly rejected the application filed by the petitioners for deposit of ad-valorem court fee on the market value of the property and the said order deserves to



CR-6952-2024

2

be set aside and the application filed by the petitioners deserves to be allowed.

3. This Court has heard the learned counsel for the petitioners and has perused the paper book.

4. A Co-ordinate Bench of this Court in case titled as “**Arun Kumar Goyal Vs. Payal Aggarwal**”, reported as **2013(4) R.C.R. (Civil) 93**, had observed that no revision would lie at the instance of the defendant against the decision on the question of inadequacy of court fee as the question of non-payment of Court fee is a dispute between the litigant and the Registry. Reliance in the said judgment was placed upon various judgments. Paras No.9 and 10 of the said judgment are reproduced as under:-

*“9. Admittedly, the dispute is of the court fee. Learned counsel for the respondent before raising any argument on the merits of the case has raised a preliminary objection that no revision is maintainable in case of payment of court fee. It has been held in various judgments that the question of non-payment of court fee is a dispute between the litigant and Registry whether it arises at the stage of presentation of plaint or the appeal and the respondent is normally not interested in such a dispute. As per ratio of judgment in case titled **Shamsher Singh v. Rajinder Prashad, 1973 PLJ 686**, revision or appeal can be filed if there is a dispute of jurisdiction. In case the question of jurisdiction is not involved then revision cannot be filed. This issue was interpreted by the Kerala High Court in **Vasu v. Chakki Mani, AIR 1962 Kerala 84** wherein it was held that no revision will lie against the decision on the question of inadequacy of court fee at the instance of the defendant. The judgment of Apex Court in Sri*



Rathnavarmarajas case (supra) was also followed by the Full Bench of this Court in M/s. Arjan Motors v. Girdhara Singh and others, 1978 PLJ 36. As per Full Bench judgment of this Court it was held that question of court fee cannot be agitated by the litigants in a petition under section 115 of the Civil Procedure Code.

10. The present case is squarely covered by a judgment of Full Bench of this Court rendered in M/s. Arjan Motors case (supra). Accordingly, in view of the facts as mentioned above and the settled position of law in case of payment of court fee, no revision is maintainable.

Dismissed.

Revision Dismissed”

5. No contrary judgment has been cited by learned counsel for the petitioners. Thus, the present revision petition at the instance of the petitioners, who are defendants in the suit, on the aspect of Court fee, is not maintainable.

6. Additionally even on merits, the impugned order has been correctly passed. A perusal of the plaint would show that the plaintiffs had filed suit for declaration to the effect that the plaintiffs and the defendants being the natural heirs of Ram Dass son of Sardu Ram are having half share in the estate of Ram Dass and accordingly, a prayer was made for declaring them to be owners to the extent of their share. In the said case, it was further prayed that the Will in favour of the present petitioners was illegal, null and void and a further prayer in the suit was made for permanent injunction restraining defendants no.1 to 4 from interfering in the joint possession of the plaintiffs, as they were co-sharers in the suit property.

A written statement was filed by the petitioners and the said

**CR-6952-2024****4**

written statement has been annexed as Annexure P-2.

8. On a pointed query raised by this Court, learned counsel for the petitioners has fairly submitted that no objection with respect to court fee being inadequate was raised in the said written statement. However, at the time of leading of defendant evidence, the application dated 23.04.2024 was filed for directing the plaintiffs to deposit ad valorem court fee, which application was opposed by the plaintiffs.

9. The trial Court vide order dated 10.10.2024 had observed that in the present case, the litigation was between Class I legal heirs of deceased Ram Dass and the plaintiffs were claiming right over the property on the basis of natural succession, whereas the present petitioners were claiming their rights on the basis of a Will in their favour. It was further observed that in case the plaintiffs were able to establish their right on the basis of natural succession, then they would be declared as co-owners and would be deemed to be in a joint possession and would thereafter be entitled to seek partition of their respective shares, and in case the Will of the deceased Ram Dass is proved, then the suit would be liable to be dismissed and thus, in either of the two situations ad-valorem court fee was not payable. It is apparent that the present case has been based on the basis of inheritance and the prayer made, is with respect to joint possession and not with respect to possession of any specific portion of the property and thus, the trial Court has rightly come to the conclusion that there is no requirement to affix ad-valorem court fee. The trial Court has further noticed that since the case is fixed for defendants-petitioners evidence, thus,



CR-6952-2024

5

the petitioners are purposely trying to delay the proceedings instead of leading their evidence.

10. Keeping in view the abovesaid facts and circumstances, the impugned order deserves to be upheld and the present petition is neither maintainable nor meritorious and thus, deserves to be dismissed and is accordingly dismissed.

(VIKAS BAHL)
JUDGE

November 29, 2024.
Davinder Kumar

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