



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

**CR-2960-2021 (O&M)
Decided on : 21.04.2025**

Ghanshyam Kansal

..... Petitioner

Versus

Jiwan Garg

..... Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. Harsh Aggarwal, Advocate
for the petitioner.

None for the respondent.

VIKRAM AGGARWAL, J (ORAL)

The petitioner has preferred the instant revision petition under Article 227 of the Constitution of India against the order dated 06.03.2020 (Annexure P-4) passed by the Court of learned Civil Judge (Junior Division), Sunam vide which the application filed by the petitioner-defendant under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') (Annexure P-2) was rejected.

2. The facts, as emanating from the revision petition, are that a civil suit for defamation/damages claiming Rs.1 crore was filed by the respondent-plaintiff against the petitioner-defendant. During the pendency of the suit, an application under Order 7 Rule 11 CPC for rejection of plaint on account of non-affixation of Court fee (Annexure P-2) was moved by the petitioner-



defendant. It was averred in the application that since recovery of Rs.1 crore as damages had been prayed for, Court fee of Rs.2,29,350/- was liable to be affixed. The application was opposed by way of a reply (Annexure P-3) wherein certain preliminary objections were raised. On merits, the application was opposed by stating that in suits for recovery of liquidated claims, no Court fee would be payable upon the value of the claim since the valuation is tentative. Reliance was also placed upon judgments of this Court in the cases of **Satish Kumar vs. Inder Singh** (CR No.7253 of 2013 decided on 28.11.2013) and **Manpreet Singh vs. Gurmail Singh and others** (CR No.5662 of 2014 and CR No.7342 of 2014, decided on 01.04.2016) and dismissal of the application was prayed for.

3. By way of impugned order dated 06.03.2020, the application moved under Order 7 Rule 11 CPC was dismissed leading to filing of the present revision petition.

4. No one has appeared on behalf of the respondent despite the case having been called twice.

5. I have heard learned counsel for the petitioner.

6. Learned counsel for the petitioner submits that the view taken by the trial court is erroneous, for, liquidated amount of damages were claimed by the petitioner-defendant. He submits that in view of the judgment passed by the Supreme Court of India in the case of **State of Punjab and others vs. Dev Brat Sharma, 2022 (2) RCR (Civil) 464**, ad valorem Court fee would be liable to be paid on amount of damages claimed.

7. I have considered the submissions made by learned counsel for



the petitioner.

8. The plaint is on record as Annexure P-1. The heading of the plaint reads as under:-

“Suit for defamation-damages against Sh. Ghanshyam Kansal; for claiming the defamation-damages to the tune/extent of Rs.1,00,00,000/- [Rupees One-Crore]; on account of defamation and unnecessary mental harassment and agony faced/suffered by the Victim-plaintiff; When Sh. Ghanshyam Kansal/(Respondent-defendant) to malign the reputation of the Victim-plaintiff illegally & just to gain-some-of-his-unwarranted-fame and rating and for fulfilling some of his ulterior motives & political-gains (during the MP Elections of 2019) as well as just to save his illegal & unlawful encroachments made by him in front of his shop no.150, Old Anaj Mandi Sunam upon the Government-Land/Government-Farr at Old Anaj Mandi Sunam from demolition; with his malafied-intentions intentionally has defamed, abused & extremely-threatened the Victim-plaintiff very-vigorously, mindlessly & illegally on 06-03-2019; by using defamatory, very-filthy, unwarranted-abusive, extremely-threatening & provoking-language against the Victim-plaintiff openly in a public-place, before the huge-gathering of people/shop-keepers in front of shop no.33 of Old Anaj Mandi Sunam unwarrantedly [i.e. in-front of the Shop of Sh. Sanjay Goyal @ Khadalia, who also is associated congress-leader of Sh. Ghanshyam Kansal] as very well is visible & evident from 3-Video-Clips from the DVD/CD annexed herewith as Annexure-A.”

9. The prayer of the plaint (Annexure P-1) reads as under:-



“It is therefore respectfully prayed that in the light of above cited facts, true position of law and after watching the annexed video-clips & News-paper-cuttings/clippings as well as after considering the contents of abusing, threatening, defaming & provoking statements/threats of Sh. Ghanshyam Kansal seriously; kindly decreed this suit of the Victim-plaintiff.

And

A decree on account of defamation, mental-harassment and mental-agony to the tune/extent of Rs.1,00,00,000/- [Rupees One Crore] may kindly be passed in favour of the Victim-Plaintiff and against the respondent/defendant as is mentioned & prayed above also.”

10. In Paragraph 4(2) of the plaint also, a sum of Rs.1 crore has been claimed as compensation. However, in paragraph 11 of the plaint (Annexure P-1), it was averred that the value of the suit for the purpose of court fee and jurisdiction would be decided by the Court and a tentative court fee of Rs.500/- had been paid. Thereafter, in paragraph 12 of the plaint, it was averred that the plaintiff had claimed defamation/damages to the tune of Rs.1 crore and requisite process fee of Rs.50/- had already been paid.

11. In the considered opinion of this Court, the matter now stands settled in view of the judgment of the Supreme Court of India in the case of *State of Punjab and others vs. Dev Brat Sharma* (supra). In the said case, a suit for recovery of Rs.20,00,000/- as damages was filed by one Dev Brat Sharma against the State of Punjab. It was claimed that the status of a freedom fighter had wrongly been denied to him which resulted in loss of reputation and, therefore, damages of Rs.20,00,000/- were claimed. An



application under Order 7 Rule 11 CPC was moved which was allowed by the trial Court and the plaintiff was called upon to make good the deficiency in Court fee within 10 weeks. This decision was challenged before the High Court. The High Court allowed the revision petition and set aside the order passed by the trial Court, consequently dismissing the application for rejection of plaint. The matter then reached the Supreme Court of India. The Supreme Court of India, after analyzing the provisions of the Court Fees Act, 1870 (hereinafter referred to as 'the Court Fees Act') came to the conclusion that such a case would fall under Section 7(i) of the Court Fees Act and not under Section 7 (iv) thereof. The Supreme Court of India, therefore, set aside the order passed by the High Court and affirmed the order passed by the trial Court.

12. Coming back to the present case, the trial Court erroneously observed that the plaintiff-respondent had not stated any fixed amount claimed by him as compensation on account of damages and, therefore, he could not be directed to affix Court fee on the amount of Rs.1 crore. To some extent, the trial Court was right because the exact amount had to be determined by the Court. However, Rs.1 crore as compensation was a liquidated amount claimed by the plaintiff. He was, therefore, required to pay Court fee on the said amount and in case subsequently more compensation is awarded, the Court would call upon the plaintiff to deposit the Court fee accordingly. In the considered opinion of this Court, keeping in view the facts of the present case and the judgment of the Supreme Court of India in the case of *State of Punjab and others vs. Dev Brat Sharma*



(supra), the impugned order is not sustainable.

13. As a consequence thereof, the present revision petition is allowed. The impugned order dated 06.03.2020, passed by the Court of learned Civil Judge (Junior Division), Sunam vide which the application under Order 7 Rule 11 CPC was dismissed, is set aside. The prayer made in the application is allowed and eight weeks time is granted to the respondent-plaintiff to make good the deficiency in Court fee failing which the plaint shall stand rejected.

Since the main petition has been decided, all pending applications stands disposed of.

(VIKRAM AGGARWAL)
JUDGE

21.04.2025
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No