

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****232****RSA-4126-2014 (O&M)****Date of decision: 04.12.2025****Sunita and others****...Appellant(s)****Vs.****Raj Gupta and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Shiv Kumar, Advocate for the appellants.

NIDHI GUPTA, J.

The plaintiffs are in second appeal against the concurrent judgments and decrees of the learned Courts below, whereby suit filed by the appellant for declaration with consequential relief of permanent injunction, has been dismissed by both the Courts below in view of the fact that plaintiff had failed to deposit requisite Court fee.

2. It is *inter alia* submitted by learned counsel for the appellants that one effective opportunity be granted to the appellants to deposit the Court fee, failing which grave loss and injustice shall be caused to the plaintiff. It is accordingly prayed that the present second appeal be allowed; and the impugned judgments and decrees of the Courts below be set aside.

3. No other argument is raised on behalf of the appellants. I have heard Id. counsel and perused the case file in detail. I find no ground is



made out to interfere in the impugned judgments and decrees of the Courts below.

4. It was the case of the appellants that they are absolute gair marusi tenants in possession of agricultural suit land as described in the plaint. It was averred that suit land is ancestral property of the plaintiffs. In June 1986, plaintiffs had borrowed an amount of Rs.20,000/- from the defendant No.1. It was alleged that against the said borrowing, defendant No.1 had obtained signatures of the plaintiffs on various blank papers for security purposes with the condition that when the plaintiffs would repay the said loan amount, defendant No.1 would return the said documents to the plaintiffs. It was further alleged that in December 1986, plaintiff had repaid the said amount alongwith interest to defendant No.1. However, no receipt was issued against the same. It was alleged that defendant No.1 had misused the said blank documents by converting the same into General Power of Attorney/GPA regarding the suit land in his own favour which he got registered as documents No. 4/26 and 4/25 dated 20.01.1987 in the office of Sub Registrar without the knowledge and consent of the plaintiffs. It was averred that in the meantime, certain other persons had got entered wrong revenue entries in their own names regarding the suit land which belonged to the plaintiffs. Accordingly, plaintiffs had filed Civil Suit No. 502 of 2000 titled as 'Maraj and another vs. Vijay Kumar and others', which was decreed in favour of the plaintiffs on dated 24.11.2001 on the basis of compromise dated 18.10.2001; pursuant to which revenue entries were corrected vide Rapat Roznamcha no. 230 dated 02.01.2002. Thereafter, in



October 2003, plaintiffs had discovered about the fraudulent GPA executed by defendant No.1 in his own name. Plaintiff had also come to know that on the basis of the said GPA, defendant No.1 executed a registered Sale Deed No. 4886 dated 06.07.2005 in favour of defendant No.2. Accordingly, present suit for declaration with consequential relief of permanent injunction, was filed.

5. The record further reveals that in the said suit, defendant had filed an application under Order 7 Rule 11 CPC which was allowed and suit of the plaintiffs was rejected on ground of insufficient Court fee. The said order was challenged by the appellants before this Court by way of Civil Revision Petition, which was also dismissed. Thereafter, despite grant of numerous opportunities, appellants had still failed to deposit the requisite court fee. The proviso to Order 7 Rule 11 CPC is very clear and reads as under: -

“The time fixed by the Court for the correction of the valuation or supplying of the requisite stamp paper shall not be extended unless the Court for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of any exceptional nature from correcting the valuation or supplying the requisite stamp paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.”

6. In the present case, plaintiff has failed to show any cause of any exceptional nature for failure to deposit the court fee. Accordingly,



ultimately, suit of the appellant was dismissed by the Civil Court vide order dated 13.03.2012; which is a self-speaking order and reads as follows: -

“PW1 Amar Chand has tendered on record documents Exhibits P10 to P13 and closed his documentary evidence by getting his separate statement recorded in the court in this regard. He has also stated that he be given some more time to pay the court fees as he has still not received the order passed in appeal by the Hon'ble High Court.

Vide order dated 25.11.2009, the plaintiffs are directed to pay the required and valorem court fee within a period of one month and the case was adjourned to 24.12.2009. However, the full court fee was not paid and the plaintiffs preferred to file a revision petition No.7772 of 2009 in the Hon'ble High Court of Punjab and Haryana. The said revision petition has been dismissed on 13.12.2011 and the copy of the order has been placed on record by Id. counsel for the defendants. It has been held that the trial court has not been wrong in holding the plaintiffs liable to pay ad valorem court fee on the consideration of the sale deed sought to be cancelled.

It cannot be said that the plaintiffs are not aware about the order dated 13.12.2011 passed by the Punjab and Haryana High Court as they were duly represented by their counsel when the revision petition was dismissed. Even if the period of one month is taken into account from 13.12.2011, still the plaintiffs have not paid the court fee after passing of more than three months since the decision of the revision petition. After 13.12.2011, the case has been taken up by this Court on 10.1.2012, 20.1.2012, 3.2.2012, 10.2.2012, 17.2.2012, 24.2.2012 and 13.3.2012 for the evidence of the plaintiffs only, but they have shown no intention of paying the court fee even



after the dismissal of their revision petition by the Punjab and Haryana High Court on 13.12.2011.

Proviso to order 7 Rule 11 CPC states that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp paper shall not be extended unless the court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of any exceptional nature from correcting the valuation or supplying the requisite stamp paper, as the case may be, within the time fixed by the court and that refusal to extent such time would cause grave injustice to the plaintiff.

However, the plaintiffs in this case have failed to mention any such cause of an exceptional nature which prevented them from paying the ad valorem court fees.

In view of the above, the plaint is rejected under order 7 Rule 11 CPC. File be consigned to the record room."

7. The Appeal filed by the appellants/plaintiffs against the above order dated 13.03.2012 has also been dismissed by the learned Additional District Judge, Faridabad vide judgment and decree dated 01.02.2014 on the ground that even after having sufficient knowledge of dismissal of her revision petition, the plaintiffs did not make any effort to pay ad valorem Court fee as directed by learned Trial Court vide order dated 25.11.2009.

8. Learned counsel for the appellant is unable to controvert or dispute the above said facts and findings, and legal position.

9. In view of the above, present Regular Second Appeal is **dismissed.**

10. Pending applications, if any, stand disposed of.

04.12.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:

Whether reportable:

Yes/No

Yes/No