



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-5082-2022(O&M)

Date of decision : 06.11.2025

Prem Lata and others

... Petitioners

Versus

Rudar Partap Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Sunil Kumar Mallan, Advocate and
Mr.Robin Singh, Advocate
for the petitioners.

Mr.R.S. Chauhan, Advocate
for the respondents.

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 17.10.2022 (Annexure P-4) passed by the Civil Judge (Jr. Div.), Pathankot, vide which the application under Order 7 Rule 11 CPC moved by the respondents for issuance of direction to the plaintiffs to pay the requisite ad-valorem court fee on the plaint was allowed.

2. Learned counsel for the petitioners has submitted that in the present case, the petitioners in the plaint have specifically stated that they are in possession of the suit property and have further prayed for permanent



injunction restraining the defendants from forcibly dispossessing the plaintiffs. It is submitted that even in paragraph 4 sub clause (c) as well as in paragraph 8, the petitioners have specifically stated that they are in possession of the suit property. It is argued that it is only as a matter of abundant precaution that they have sought the alternative relief of possession and in the said circumstances, the petitioners are not required to pay ad-valorem court fee as has been held by the Co-ordinate Bench of this Court in the case of ***Hukam Singh vs. Sunder and others*** reported as ***2010(4) PLR 158***. It is argued that at any rate, substantial suit land is an agriculture land and thus, in view of the provisions of Sections 7, 9 and 10 of the Court Fees Act, 1870, the Court fee which is payable would not be ad-valorem court fee but would be dependent upon the land revenue and the petitioners have already affixed the court fee as 10 times land revenue for alternative relief of possession. Learned counsel for the petitioners has further in support of his arguments referred to the judgment of this Court dated 21.03.2025 passed in ***CR-5142-2024*** titled as ***Ravinder Kumar Modi and another vs. State of Punjab and others***. It is submitted that the impugned order deserves to be set aside.

3. Learned counsel for the respondents, on the other hand, has submitted that a careful reading of the plaint moreso, paragraph 6 would show that actually the petitioners are not in possession of the property and have cleverly, instead of seeking the original relief of possession, are seeking the alternative relief of possession by stating that in case the



defendants are proved to be in possession of the suit property, they be granted possession. It is further submitted that even as per the judgments relied upon by learned counsel for the petitioners in the case of ***Ravinder Kumar Modi (supra)*** and also provision of Section 7 read with Section 9 of the Court Fees Act, all the aspects including the aspect as to whether on the date of filing of suit, the petitioners were in possession or not, are required to be considered for the purpose of adjudicating as to how much of court fee is payable by the petitioners. It is submitted that in case the Court comes to the conclusion that the petitioners were not in possession of suit property on the date of suit, then much higher court fee would be payable. It is however fairly submitted that since the written statement has not been filed in the present case, thus, the respondents be permitted to raise the said plea in the written statement and a specific issue regarding 'court fee' be framed and the said issue be decided in accordance with law at the stage of final adjudication.

4. Keeping in view the above said facts and circumstances and the fair stand taken on behalf of the learned counsel for the petitioners as well as the learned counsel for the respondents, the present revision petition is partly allowed and the impugned order dated 17.10.2022 is set aside with the following observations / directions:-

- i) It would be open to the respondents to raise the plea of inadequacy of court fee in the written statement. In case the said written statement has already been filed and the said plea



has not been taken, then it would be open to the respondents-defendants to move an application for amendment to raise the said issue within a period of two weeks from today and on such application being moved within the abovesaid time, the amendment to the said effect would be allowed, as the petitioners have no objection to the said amendment application being allowed, if moved within two weeks.

ii) A specific issue with respect to court fee would be framed by the trial Court and both parties will be permitted to lead evidence in support of their pleas as well as in support of the said issue.

iii) The said issue would be decided at the stage of final adjudication along with other issues.

(VIKAS BAHL)
JUDGE

November 06, 2025.
Davinder Kumar

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