



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

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CR No.1270 of 2026 (O&M)
Date of Decision: 12.03.2026

Surinder Kumar Malik (deceased) through LRs ...Petitioner

V/s

Sonia Herbert and another ...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Deep Singh Saini, Advocate, for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

The instant petition, preferred under Article 227 of the Constitution of India, assails the order dated 16.01.2026 (Annexure P-9) passed by the Court of Civil Judge (Jr. Divn.), Yamuna Nagar, vide which the application preferred by the respondents-defendants under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (for short "the CPC") was disposed of with a direction to the petitioner-plaintiff to affix *ad valorem* Court fee on the market value/collector rate of the suit property.

2. The facts, as emanating from the petition, are that a suit for permanent injunction was instituted by the petitioner-plaintiff (Surinder Kumar Malik) against the respondents-defendants seeking to restrain them from interfering in his ownership and actual physical possession over Plot No.13 (fully described in the plaint), situated in Guru Nanakpura Colony, Jagadhri, District Yamuna Nagar (hereinafter referred to as "the suit property"). Mandatory injunction directing the respondents-defendants to remove and demolish any construction made over the suit property during the pendency of the suit was also sought.

3. An application under Order 6 Rule 17 CPC was moved by the petitioner-plaintiff with the averment that upon coming to know about the institution of the suit, the respondents-defendants, with the help of a mason and labourers dismantled the northern boundary wall of the suit property and raised a wall against the wall on the eastern side by blocking the intervening iron gate of the plot of the petitioner-plaintiff and they also constructed one room with a tin shed in the suit property. Under the circumstances, the plaint was sought to be amended seeking restoration of possession over the said area. The said application was allowed vide order dated 27.03.2023 (Annexure P-4). Pursuant to the same, amended plaint (Annexure P-5) was filed.

4. Written statement to the amended plaint (Annexure P6) was also filed.

5. Subsequently, an application under Order 7 Rule 11 CPC (Annexure P-7) was moved by the respondents-defendants seeking payment of *ad valorem* Court fee on the market value of the suit property since the relief of possession had been sought. *Ad valorem* Court fee on the claim of *mesne* profits at the rate of Rs.500 per day was also sought to be affixed.

6. The said application was opposed by way of a reply (Annexure P-8). Vide the impugned order dated 16.01.2026 (Annexure P-9), the claim of the respondents-defendants as regards fixing of *ad valorem* Court fee on the claim of *mesne* profits was declined but it was ordered that *ad valorem* Court fee was required to be paid on the market value/collector rate of the suit property as the relief of possession had been sought.

7. I have heard learned counsel for the petitioner.

8. Learned counsel has submitted that the trial Court erred in ordering that *ad valorem* Court fee at the rate of market value/collector rate

was required to be affixed. Learned counsel has referred to the impugned order and has submitted that the same is not sustainable. In support of his contentions, learned counsel has placed reliance upon the judgments in ***Bharat Bhushan Gupta vs. Pratap Narain Verma @ another, 2022 (3) RCR (Civil) 345.***

9. I have considered the submissions made by learned counsel for the petitioner.

10. Concededly, as per the own case of the petitioner, the respondents-defendants took over possession of a part of the suit property during the pendency of the suit and under the circumstances, the plaint was amended and the relief of possession was sought. While allowing the claim of the respondents-defendants that *ad valorem* Court fee was payable according to the value of the property/collector rate, the trial Court relied upon the judgment of a coordinate Bench in the case of ***Tarandeep Singh vs. Subash Chander, 2017(1) RCR (Civil) 805***, wherein it was held as under:-

“12. Plaintiff-petitioner claimed possession by way of mandatory injunction of the suit property which he had purchased vide sale deed dated 09.06.2006. Plaintiff himself has pleaded that he had purchased the property for a sale consideration of Rs.4,98,000/-, but was dispossessed during pendency of the suit by the defendant and the defendant had raised some construction over the suit property. After the aforesaid construction having been raised by the defendant, the plaintiff got his suit amended and claimed relief of mandatory injunction directing the defendant-respondent to restore the possession of the suit property to the plaintiff.

13. As per Section 7 (v) of the Court Fees Act, 1870, plaintiff was to affix the court fee as per value of the subject matter of the suit. The value of the subject matter of the suit as per own showing of the plaintiff was to be calculated on the basis of additional construction allegedly raised by the defendant during pendency of the suit. Though the plaintiff had purchased the suit plot for a sale consideration of Rs.4,98,000/- and an amount of Rs.15,600/- was affixed as court fee, but since the construction was raised by the defendant during pendency of the suit on dispossessing the plaintiff, for which proposed amendment was allowed, therefore, in view of Section 7(v) of Court Fees Act, an ad valorem court fee is required

to be paid according to the value of the subject matter of the suit. The value of the subject matter of the suit has to be calculated as per Collector's rate which was found to be Rs.5660/- per sq. yard at the relevant time ie. in the year 2014 when the amendment was allowed.

14. Having considered the submissions, I am of the view that the petitioner is liable to affix the additional court fee on the basis of Collector's rate on the value of the subject matter of the suit in the year 2014. No ambiguity can be found in the impugned order dated 10.12.2014 passed by Civil Judge (Junior Division), Ludhiana. Therefore, this revision petition is dismissed."

11. Learned counsel for the petitioner could not produce any judgment to the contrary. Having perused the said judgment, this Court is of the considered opinion that it categorically decides the issue and the instant case is covered by the said judgment. In that case also, the plaintiff had been dispossessed during the pendency of the suit after which the suit was amended and restoration of possession was sought. It was under these circumstances that the coordinate Bench held that *ad valorem* Court fee in terms of the provisions of Section 7(v) of the Court Fees Act, 1870 would be applicable and the plaintiff would have to affix Court fee as per the value of the subject matter of the suit. The trial Court rightly relied upon the said judgment and ordered affixation of Court fee in terms of the provisions of Section 7(v) of the Court fees Act, 1870. The trial Court shall also keep in mind the judgment of the Hon'ble Supreme Court of India in ***Bharat Bhushan Gupta's case*** (*supra*) while deciding the *ad valorem* Court fee payable.

12. I do not find any irregularity in the said order warranting interference by this Court.

13. Accordingly, the revision petition is found to be devoid of merit and is accordingly dismissed.

Pending application(s), if any, shall also disposed of.

(VIKRAM AGGARWAL)
JUDGE

March 12, 2026
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No