

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****201****CR-3064-2022 (O&M)****Date of decision: 08.04.2026****Punjab National Bank and another****...Petitioner(s)****Vs.****M/s. Sujeet Motors Private Limited, Hisar****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Tarun Dhingra, Advocate
for the petitioners.

Ms. Aakriti Mittal, Advocate
for the respondent.

NIDHI GUPTA, J.

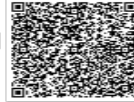
Present Civil Revision Petition under Article 227 of the Constitution of India has been filed by the defendants against the order dated 27.05.2022 (Annexure P-4) passed by learned Additional Civil Judge (Senior Division), Hisar; whereby application filed by the defendants seeking rejection of the plaint, has been allowed and defendants have been directed to file written statement expeditiously.

2. It is *inter alia* submitted by learned counsel for the petitioners/defendants that vide the impugned order dated 27.05.2022 (Annexure P-4) application filed by the petitioners under Order VII Rule 11 CPC for rejection of plaint, has been allowed. However, vide the impugned order, the plaintiff/respondent has also been permitted/directed to pay Court fees according to the amount if any



decreed in its favour. Further, defendants have also been directed to file written statement expeditiously to proceed with the civil suit. Learned counsel for the petitioners contends that impugned direction of the learned Trial Court is in the teeth of judgment of this Court passed in **Punjab State Transmission Corporation Limited v. Government of India, (Punjab And Haryana) : Law Finder Doc Id # 1823367**; and of Hon'ble Supreme Court passed in **Civil Appeal No. 5432 of 1992** titled as **American Express Bank Ltd. vs. Calcutta Steel Co. and others**, decided on 18.12.1992; wherein it has been held that if recovery is sought in a civil suit then ad valorem Court fee is liable to be paid. It is submitted that in the present case, perusal of the plaint (Annexure P-2) shows that in actual fact, respondent is seeking recovery from the petitioners. It is submitted that in the suit, respondent/plaintiff has set up a specific claim on account of wrong deduction made by the petitioner-Bank. As such, order of the learned Trial Court in refusing to direct the respondent to affix ad valorem Court fee on the ground that actual amount, if any, payable to the plaintiff is required to be ascertained and Court fee would be payable at the time of passing of decree, is illegal and incorrect. It is submitted that therefore, in view of the fact that there was monetary dispute between the petitioners and respondent, respondent was required to file ad valorem Court fee.

3. It is accordingly prayed that the present Revision Petition be allowed; and the impugned order be set aside.

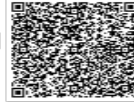


4. *Per contra*, Id. counsel for the respondent opposes submissions advanced on behalf of the petitioners and points out that the civil suit (Annexure P-2) has been filed by the plaintiff for declaration to the effect that the act of the defendants in illegally deducting amount of Rs.14,85,230/- from the bank account of the plaintiff be declared as illegal, null and void. It is submitted that therefore, impugned order suffers from no error, and the present Revision Petition has been filed by the petitioners only with a malafide intent to prolong the litigation. Hence, the present Revision Petition deserves to be dismissed.

5. No other argument is raised by learned counsel for the parties. I have heard learned counsel and perused the file. I find no merit in the submissions advanced on behalf of learned counsel for the petitioners.

6. Brief facts of the case in chronological order are as follows: -

18.12.2019: Respondent/plaintiff had filed Civil Suit (Annexure P-2) for *“Declaration to the effect that the act of the defendants be declared illegal whereby they illegally deducted the amount of Rs. 14,85,230/- from the bank account of the plaintiff on alleged account of withdrawn of concession in rate of interest on 15.04.2019 w.e.f. 27.02.2018 and the same is illegal, null and void, against the principles of natural justice, against the provisions of Indian Constitution, against law and facts, arbitrary, wonton, malafide, improper, null and void and has no effect on the rights of plaintiff and are liable to be set aside; **and** mandatory injunction directing the defendants to credit the illegally*



deducted/debited amount to the plaintiff along with interest at the rate of 12% per cent per annum from due date till its realization with all other consequential benefits be passed against the defendants and in favour of the plaintiff with costs. Any other additional or alternative relief to which plaintiff is found be entitled be also granted.”

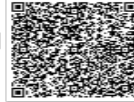
02.03.2021: On 02.03.2021, petitioners moved instant application (Annexure P-3) for rejection of the plaint.

11.03.2022: On 11.03.2022, respondent had filed reply to the application filed by the petitioner under Order VII Rule 11 CPC.

27.05.2022: Vide impugned order dated 27.05.2022 (Annexure P-4), application under Order VII Rule 11 CPC filed by the petitioners was allowed by the learned Trial Court in the following terms: -

“3 Application in hand is allowed whereby a specific issue is directed be framed qua maintainability as well as for payment of court fees. In eventuality of the civil suit of the plaintiff succeeding the plaintiff would be bound to pay court fees according to the amount if any would be decreed in favour of the plaintiff as well as the question of maintainability. The present civil suit was filed in the year 2019 and therefore, it is directed to the defendant to expeditiously file written statement so that all the issues can be taken up and civil suit be proceed as per law.

4. Nothing constrained herein shall amount to expression on the merits of the case.”



7. I find no infirmity whatsoever in the impugned order. Consequent to the passing of the above said impugned order following issues have been framed by Trial Court vide order dated 01.08.2022: -

“1-Whether the plaintiff is entitled to relief of declaration to the effect that the act of the defendants be declared illegal, whereby they illegally deducted the amount of the plaintiff on alleged account of with drawn of concession in rate of interest on 15.04.2019 w.e.f. 27.02.2018 and the same is illegal, null and void as prayed for?OPP.

2-Whether the plaintiffs are entitled to relief of mandatory injunction directing the defendants to credit the illegally deducted/debited amount to the plaintiff alongwith interest @ 12% per annum from due date till its realization, as prayed for?OPP.

3-Whether the suit of plaintiff is not maintainable in the present form? OPD.

4-Whether the plaintiff has no locus standi or cause of action to file the present suit?OPD.

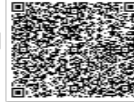
5-Whether the plaintiff is etopped by his own act and conduct to file the present suit?OPD.

6-Whether the Civil Court has no jurisdiction to try or entertain the present suit?OPD.

7-Whether the suit is bad for want of court fee?OPD.

8-Relief.”

8. Perusal of the said order shows that specific issues with regard to dispute at hand had been duly framed by the learned Trial Court, in particular issue No.2 and issue No.7. The record further reveals that petitioners have filed written statement on dated 01.08.2022.

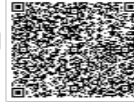


9. It is admitted fact on record that in adjudicating upon an application under Order 7 Rule 11 CPC only the averments made in the plaint are to be taken into consideration by the trial Court. It has been repeatedly held by the Hon'ble Supreme Court in numerous judgments that not even the written statement filed in the suit can be considered at the time of adjudicating upon an application Order 7 Rule 11 CPC.

10. Furthermore, Revision Petition is not maintainable against the impugned order, in view of the following judgments of this Court in **"Steel Authority of India Vs. M/s Raja Steel Works and others"** Law Finder Doc. I.D. 965439, date of decision on 11.08.2017" wherein it is held as under:-

"Constitution of India, 1950 Article 227 Civil Procedure Code, 1908, Order 7, Rule 11 read with Section 151 - Ad Valorem Court fees - Plaintiff-respondent filed suit for a preliminary decree for rendition of accounts and for mandatory injunction, directing defendants to settle plaintiff's claim and to refund/pay the amount of losses to the plaintiff - Petitioners-defendants plea in regard to limitation and the Court fee - Court below dismissed defendant-petitioners application - No revision petition before High Court would be maintainable at the hands of the defendants, unless the question of Court fee involves the jurisdiction of Court - It is so said, because the issue of Courts fee, including its alleged inadequacy, would be primarily between the plaintiff and the State - Defendants cannot be permitted to stall the progress of the suit before the learned trial Court, because it is not going to suffer any kind of prejudice due to alleged inadequacy of Court fee paid by the plaintiffs - Thus, no error of law while passing impugned order - No jurisdiction exceeded - Petition dismissed.

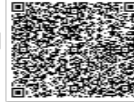
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23. Further, during the course of hearing, when confronted with as to what kind of prejudice, whatsoever, has been caused to the defendants by passing the impugned orders, which may warrant interference at the hands of this Court, while exercising its supervisory jurisdiction under Article 227 of the Constitution of India, learned counsel for the petitioner(s) had no answer and rightly so, it being a matter of record. Thus, following the law laid down by Hon'ble the Supreme Court in **Vimla's case (supra)**, **Shamsher Singh's case (supra)** as well as by two Full Benches of this Court in **Krishan Kumar Grover's case and Arjan Motor's case (supra)**, it is held that no revision petition before this Court would be maintainable at the hands of the defendants, unless the question of court fee involves the jurisdiction of court. It is so said, because the issue of court fee, including its alleged inadequacy, would be primarily between the plaintiffs and the State.

24. Under such circumstances, defendants cannot be permitted to stall the progress of the suit before the learned trial court, because it is not going to suffer any kind of prejudice due to alleged inadequacy of court fee paid by the plaintiffs. Although it may not be an absolute rule in every given situation, yet this Court would normally insist asking the defendants to show his locus standi and right to file and maintain a revision petition before this Court, against an order passed by learned trial court, dismissing his application under Order 7 Rule 11 CPC. It is so said because in the cases where the plaintiffs are claiming tentatively calculated amount, court fee can always be fixed after the court quantifies the amount, asking the plaintiffs to pay adequate court fee."

11. The observations made in the judgment titled as "**Surjit Kaur and another Vs. Sanamdeep Singh and others** Law Finder Doc. ID # 965380 decided on 31.07.2017 is reproduced as under:-



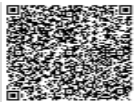
"B. Code of Civil Procedure 1908 (V of 1908), Order 7 Rule 11- Constitution of India, Article 227-Court Fees Act, 1870 (7 of 1870). Section 7-Sale deed-Suit for declaration-Ad-valorem court fees-payment of court fee is a question which is primarily between the plaintiff and the State-Revision petition at the hands of defendants is not maintainable against the order passed by the trial Court dismissing application under Order 7 rule 11 CPC."

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*5. Further revision petition at the hands of defendants is not maintainable against the order passed by the trial court dismissing application under Order 7 Rule 11 CPC. The payment of court fee is a question which is primarily between the plaintiff and the State. Hon'ble the Supreme Court in "**Rathnavarmaraja Raja Vs. Smt. Vimla**" AIR 1961 SC 1299 has held that the defendant has no right to challenge the aforesaid order by filing appeal or revision."*

12. Further, reliance can be placed on the judgment passed in "**Ishwar Dayal Sehgal and others Vs. Sunita Chattly**" decided on 08.04.2021, **Law Finder Doc. I.D. # 2016582**. The relevant part is extracted as under: -

"Civil Procedure Code, 1908, Order 7, Rule 11 - Constitution of India, 1950 Article 227 Application filed for rejection of plaint - Application dismissed - Present revision filed against same - Defendants objecting that plaintiff has not affixed proper court fee - Learned Civil Judge, Junior Division has found that the proper court fee has been affixed - Still further, no further appeal or revision at the hands of defendants is maintainable in view of the judgment passed by the Supreme Court in AIR 1961 SC 1299 - Petitioner further submitted that the plaint is not drafted in accordance with Order 7, Rule 1 (i) - Held, this matter can be examined by the court while finally adjudicating the suit - Hence, no ground to exercise jurisdiction under Article 227 of the



Constitution of India is made out - Present petition accordingly dismissed. "

14. In view of the above noted legal position, I find no ground is made out to interfere in the impugned order dated 27.05.2022 (Annexure P-4). The present Civil Revision Petition is accordingly **dismissed**.

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

08.04.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No