



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

123 (2)

CR-4535-2026

Date of Decision: 27.05.2026

DEVENDER

....Petitioner

V/s

SAROJ SHARMA (NOW DECEASED) THROUGH HER LRS AND
OTHERS

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. A.P.S. Sandhu, Advocate
for the petitioner.

VIKRAM AGGARWAL, J. (ORAL)

The instant revision petition, preferred under Article 227 of the Constitution of India, assails the order dated 05.03.2026 (Annexure P-7) passed by the Court of Civil Judge (Senior Division), Gurugram, dismissing the application filed by the petitioner under Section 151 of the Code of Civil Procedure, for dispensing with the service of the defendants.

2. Briefly put, the facts are that a suit (Annexure P-1) for possession by way of specific performance instituted by the petitioner-plaintiff against the respondents-defendants was partly decreed in the following terms:-

“In view of the above findings, the suit of the plaintiff is hereby disposed of as follows:

(a) The relief of specific performance of the agreement to sell dated 17.12.2011 is dismissed.

(b) The relief of permanent injunction is dismissed.

(c) The plaintiff is entitled to recover ₹1,00,00,000/- (Rupees One Crores only) from defendants No. 1 and 3 to 13, along with interest at the rate of 12% per annum from 20.12.2011

until actual realization.”

3. After the decision of the said suit, an application (Annexure P-5) was moved by the petitioner-plaintiff under Section 151 CPC read with Sections 10 and 11 of the Court Fee Act, 1870 (as applicable to Haryana) for refund of excess Court fee paid by the petitioner-plaintiff, with the following averments:-

“2. That when the suit was filed, the provision of law regarding the affixation of Court fee on the suit for specific performance was Act 16 of Haryana of 2009, vide which the Central Court Fee Act 1870 was amended by the Haryana Government vide notification 10.09.2009

3. That the relevant provision of the Act 16 of 2009 passed by Haryana Government is reproduced hereinafter as under-

"And when the amount or value of the subject matter exceeds seventy-five lakh rupees, the proper fee leviable shall be two lakh six thousand three hundred rupees plus twenty five rupees for each five hundred rupees or part thereof in excess of seventy-five lakh rupees."

4. That the consideration of the agreement to sell was Rs. 341836797/-. As per the aforesaid provision the Court Fee was calculated by the counsel for the plaintiff/applicant as payable Rs. 1,69,23,140/-.

5. That it is pertinent to mention, that when the aforesaid notification was issued by the Haryana Government, at that time it was mistakenly published in the official gazette notification and the amount which is mentioned as Rs.500/- in the notification was in fact Rs.5,000/- but it was mistakenly published as Rs. 500/- in the notification.

6. That as such, the Haryana Government issued a corrigendum on 01.10.2009 correcting the aforesaid mistake of Rs 500/- to Rs.5,000/-. The corrigendum issued by the Haryana Government on 01.10.2009 is reproduced hereinafter for the ready reference of this Hon'ble Court:-

"Part IV***Haryana Government Law and Legislative Department******Corrigendum******The 1st October, 2009***

In the Court Fees (Haryana Amendment) Act, 2009 (Haryana Act No. 16 of 2009), published in the Haryana Government Gazette (Extraordinary), dated the 10th September, 2009, at page 220, in para, in third line, for "hundred", read "thousand".

PL. Ahuja Secretary to Government, Haryana Law and Legislative Department"

7. That as such if the Court fees is to be calculated as per the corrigendum, then the Court fee comes to Rs. 18,78000/-

8. That when the suit was filed, the counsel for the plaintiff was not in the knowledge of the aforesaid corrigendum and even in the subsequent publications, sometimes by mistake the sum of Rs.5,000/- was mentioned as Rs.500/-

9. That however the suit continued and was finally decided by this Hon'ble Court on 29.08.2025.

10. That when the plaintiff/applicant consulted with the counsel for the purpose of filing appeal, it is then that this mistake came to the knowledge, that in fact the payable Court fee at that time was Rs.18,78000/-, but by mistake it was paid as Rs. 1,69,23,140/- "

4. The said application was followed by another application (Annexure P-6) under Section 151 CPC for dispensing with issuance of notice to the defendants. It was averred that since the issue of Court fee was essentially a matter between the Court and the plaintiff, there would be no requirement of issuance of notice to the defendants, as the same would only delay the matter.

5. By way of the impugned order, the said application was dismissed, leading to the filing of the instant revision petition.

6. I have heard the learned counsel for the petitioner.

7. Learned counsel for the petitioner submits that the trial Court erred in dismissing the application for dispensing with issuance of notice to the defendants because the defendants have no concern with the issue of Court fee and service to the said defendants will result in undue wastage of time and will prolong the decision in the matter. It has been submitted that even the Ahlmad has reported that excess Court fee had been deposited. Learned counsel submits that under the circumstances, the impugned order is not sustainable.

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

9. It is well settled that the issue of Court fee is a matter between the plaintiff and the Court and defendants have no role to play in the same. Here the plaintiff is claiming refund of Court fee based upon certain averments made in the application. Whether the amount is substantial or not would not and should not make any difference. The Court only has to see whether actually excess Court fee was paid and if necessary, can inquire into the matter. However, there would be no necessity of issuing notice to the defendants and giving them an opportunity of being heard.

10. For the reasons aforementioned, the instant revision petition is allowed. The impugned order dated 05.03.2026 is set aside and the application filed by the plaintiff for dispensing issuance of notice to the defendants is allowed. A direction is issued to the trial Court to decide the

issue raised in the application for refund of Court fee, as per law. The petitioner may appear before the trial Court on 01.07.2026 at 10:00 AM.

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

(VIKRAM AGGARWAL)
JUDGE

May 27, 2026
Mani Kumar

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