
(2015) 05 P&H CK 0288

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 7060 of 2013 (O and M)

Sunita Rani and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 18-05-2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 7 Rule 11

Citation : (2015) 179 PLR 580

Hon'ble Judges : Rajesh Bindal, J

Bench : Single Bench

Advocate : J.K. Singla, for the Appellant; P.S. Bajwa, Deputy Advocate General, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Rajesh Bindal, J.—This order will dispose of two petitions bearing Civil Revision Nos. 7060 of 2013 and 3149 of 2014, as both involve identical issue.

2. The facts have been noticed from Civil Revision No. 7060 of 2013.

3. Challenge in the present petition is to the order dated 28.9.2013 passed by the learned Court below vide which the petitioners were directed to affix ad valorem court fee on the value of the relief claimed. The order was passed on an application filed by the respondents under Order VII Rule 11 CPC.

4. Briefly, the pleaded facts are that the petitioners filed a suit claiming damages. The petitioners-plaintiffs claimed that after getting herself got operated, petitioner No. 1 applied for benefits under the Balri Rakshak Yojna supported by the Government of India. The benefits were not granted but the petitioners were being harassed. In the suit, the respondents filed application under Order VII Rule 11 CPC for rejection of the plaint on the ground that proper court fee had not been paid on the value of the relief claimed in the suit. The learned Court below vide impugned order dated 28.9.2013 directed the petitioners to pay ad valorem court fee. The order has been challenged in the present petition.

5. Learned counsel for the petitioners submitted that ad valorem court fee is not payable on claim of unliquidated damages even if certain specific amount is mentioned in the suit filed. In the case in hand, though the petitioners had mentioned that they are entitled to damages of Rs. 8 lacs, however, on the tentative value, court fee of Rs. 500/- was affixed. The learned trial Court has still not decided as to how much compensation the petitioners are entitled to. As and when the issue regarding quantum of compensation will be decided, the petitioners will affix the Court fee on the amount awarded. In support of his plea, reliance was placed upon judgment of this Court in State of Punjab and Others Vs. Jagdip Singh Chowhan, (2005) 139 PLR 650 .

6. On the other hand, learned counsel for the respondents submitted that litigant is required to deposit ad valorem court fee on the specific amount of compensation/damages claimed in the suit filed. Once specific amount has been claimed, there is no question of affixing tentative court fee. A bare perusal of the plaint shows that the petitioners have claimed Rs. 8 lacs as compensation. Hence, to claim that tentative court fee has been affixed as the damages are unliquidated is not tenable. In support of the plea, reliance was placed upon judgments of this Court in Ranjit Kaur and others vs Punjab State Electricity Board and another 2007 (1) R.C.R. (Civil) 686 , R.S. Malik Vs. Krishan Mohan, IAS and Others , and Manjeet Singh vs Beant Sharma 2012 (4) PLR 287.

7. Heard learned counsel for the parties and perused the paper book.

8. In the case in hand, the petitioners filed a suit claiming damages/compensation of Rs. 8 lacs. In para 17 of the plaint, it has been specifically mentioned that the suit is valued for the purpose of jurisdiction and court fee at Rs. 8 lacs. But still tentative court fee of Rs. 500/- was affixed. Paras 17 and 18 of the plaint are extracted below:-

"17. That the suit valued for the purpose of jurisdiction and for the purpose of court fee is Rs. 8,00,000/-. So the Court fee of Rs. 500/- is affixed with the plaint as court fee on tentative value.

18. That the plaintiff has submitted that the suit for recovery of Rs. 8 lakh for compensation for damages may kindly be decreed with cost in favour of the plaintiff and against the defendants along with the court expenses and the decreed amount along with interest of 18% per annum from the date of filing of the suit may kindly be recovered from the defendants to the plaintiffs and any other relief may also kindly be given in the interest of this court."

(sic).

9. Even in the relief claimed, it is prayed that damages of Rs. 8 lacs be granted.

10. The issue which is required to be considered by this Court is as to how much court fee is payable.

11. The identical issue was considered by this Court in Ranjit Kaur's case

(supra), where compensation was claimed on account of death of a person due to electrocution. In the aforesaid case though the compensation of Rs. 20 lacs was claimed, however, the plaintiffs therein fixed the value of the suit for the purpose of court fee and jurisdiction at Rs. 500/- and paid a court fee of Rs. 50/-. The objection was raised regarding affixation of court fee before the trial court which directed the plaintiffs therein to affix the court fee on the amount of Rs. 20 lacs as claimed in the suit. The order was upheld by this court holding that once a specific amount has been claimed as damages irrespective of the fact as to whether the plaintiffs succeed in getting the amount claimed or not, they are required to affix ad valorem court fee on the amount of compensation claimed. They are not permitted to tentatively value the suit for the purpose of court fee and jurisdiction. Relevant para 14 of the aforesaid judgment is extracted below:-

"14. In the present case, the plaintiffs have specifically claimed Rs. 20 lacs as damages. Though exact break up of the entire claim has not been mentioned, yet the basis of claim of such compensation is available in the plaint which is evident from reading para Nos. 5 to 9 thereof. Therefore, the plaintiffs have claimed specific amount. Whether the plaintiffs succeed in claiming such amount is not the question which can be done into at the time of deciding the question whether proper court fees has been affixed. The plaintiff may or may not succeed in getting the amount claimed but it is for him to establish his loss and affix court fees thereon. It is well settled that the court fees has to be determined on the basis of entire reading of the plaint. Therefore, in terms of Section 7(i) of the Act, the plaintiffs are liable to pay advalorem court fees on the amount of Rs. 20 lacs."

12. Even the judgment in Ranjit Kaur's case (supra) was also considered by the learned Court below.

13. The issue was further considered by this Court in R.S. Malik's case (supra). In that case as well, the plaintiffs filed a suit claiming compensation of Rs. 8 crores. However, for the purpose of court fee, the suit was valued at Rs. 1 lac and the court fee was paid accordingly. In an application for rejection of plaint the trial court directed the plaintiff to affix ad valorem court fee on the compensation claimed. The order was upheld by this court holding that the plaintiff is liable to deposit ad valorem court fee on the specific amount of compensation claimed. Earlier judgment in Ranjit Kaur's case (supra) was followed.

14. Subsequent thereto, even in Manjeet Singh's case (supra), the same opinion was expressed by this Court. The order passed by the learned Court below was upheld. Despite the fact that the plaintiff had used the expression, "unliquidated damages", this court found that the specific amount of damages had been claimed, hence, ad valorem court fee was payable.

15. A perusal of the plaint filed by the petitioners in the present case shows that

not only specific amount of Rs. 8 lacs has been claimed as compensation, but even for the purpose of jurisdiction and court fee, the suit has been valued at Rs. 8 lacs. Hence, to state that the court fee at a lesser tentative amount is payable is totally misconceived. There is no error in the order passed by the learned Court below. Both the petition are, accordingly, dismissed. However, the petitioners shall be at liberty to deposit requisite court fee on or before 31.8.2015.