

(2013) 10 P&H CK 0200

High Court Of Punjab And Haryana At Chandigarh

Case No: CR-6585-2013 (IO)

Krishna Devi

APPELLANT

Vs

Parshotam Dass and Others

RESPONDENT

Date of Decision: Oct. 30, 2013

Hon'ble Judges: S.P. Bangarh, J

Bench: Single Bench

Advocate: Munsih Dev, for the Appellant;

Final Decision: Allowed

Judgement

S.P. Bangarh, J.

Learned counsel for the petitioner contends that the respondents nos. 1 and 2 are defendants nos. 1 and 2 before the trial Court. They moved application under order 7 Rule 11 of the CPC ("C.P.C." for short) for seeking direction to the petitioner to affix ad valorem Court fee on the plaint as per the suit value. Learned counsel for the petitioner states that the latter is not liable to pay the Court fee as per the market value of his share in the joint Hindu family property and that he had already paid Court fees as per the value of the suit for the purpose of payment of Court fee.

2. The trial Court in the impugned order held that keeping in view the proposition of law and that the petitioner is seeking relief of possession, he is liable to pay ad valorem Court fee on the suit value.

3. Learned counsel for the petitioner rightly contends that the impugned order is not clear regarding the amount of Court fee that has to be paid by the petitioner. So, the impugned order is set aside with the direction to the trial Court to pass a fresh order as to whether the petitioner is liable to pay Court fee as per the value of the suit set up by him in para 12 of the plaint or he has to pay Court fee as per the market value of his 1/3rd share in the joint property, wherefore, he has sought decree for possession.

4. In order to avoid further delay, notice of this petition has not been given to the respondents, who if aggrieved thereby, can approach this Court through appropriate petition.

5. Resultantly, the revision is allowed; impugned order is set aside with the direction to the trial Court to pass a fresh order in terms indicated above which are reiterated that as to whether the petitioner is to pay Court fee as per the value of the suit set up by him in para 12 of the plaint or he is to pay Court fee as per the market value of his 1/3rd share in the joint property, wherefore, he has sought decree for possession.

6. This order, however, shall be sane prejudice to the merits of the application under Order 7 Rule 11 CPC, that will be decided afresh by the trial Court. A copy of this order be given dasti to the learned counsel for the petitioner under the signatures of Court Secretary of this Bench.