



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**  
**122** **CR-321-2025 (O&M)**  
**Date of decision: 20.01.2025**

**Anil Kumar**

**...Petitioner(s)**

**Vs.**

**Dr. Hawa Singh**

**...Respondent(s)**

**CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr.Garvit Mittal, Advocate  
for the petitioner.

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**NIDHI GUPTA, J.**

Present petition under Article 227 of the Constitution of India is filed by the defendant seeking quashing of the impugned order dated 20.11.2024 (Annexure P5) passed by the learned Civil Judge (Junior Division), Panipat, whereby the application filed by the petitioner under Order 7 Rule 11 CPC (Annexure P3) seeking rejection of the plaint/suit (Annexure P2) has been dismissed.

2. Brief facts of the case are that the plaintiff/respondent herein had filed a suit dated 21.03.2023 (Annexure P2) seeking damages from the petitioner/defendant. Admittedly, in the said suit, the damages were not quantified. Prior to filing of the suit, the plaintiff had issued a legal notice dated 15.02.2023 (Annexure P1), to the defendant in which he had stated that damages to the tune of Rs.50 lakh were payable by the defendant on account of harassment and defamation and mental pain, along with Rs.22,000/- as fees of legal notice dated 15.02.2023. Upon notice in the above-mentioned suit, the defendant appeared before the



learned trial Court and filed present application under Order 7 Rule 11 CPC dated 'Nil' (Annexure P3) seeking rejection of the plaint inter alia on the ground of non-affixation of ad valorem Court fee on the value of damages being claimed by the plaintiff in his legal notice dated 15.02.2023 (Annexure P1) as well as the suit (Annexure P2); as also on the ground of non-maintainability of the above-mentioned suit for want of jurisdiction of the learned Civil Judge, Panipat. The plaintiff filed reply dated 'Nil' (Annexure P4) to the above said application (Annexure P3) thereby reiterating the contents of the plaint (Annexure P2) and prayed for dismissal of the application. Vide impugned order dated 20.11.2024 (Annexure P5), the learned Civil Judge, Junior Division, Panipat has dismissed the above said application of the defendant under Order 7 Rule 11 CPC.

3. Learned counsel for the petitioner submits that the application of the petitioner under Order 7 Rule 11 CPC could not have been dismissed as the learned trial Court failed to appreciate that the plaintiff was required to file the ad valorem Court fee as per the damages of Rs.50 lakh claimed by him. It is submitted that as per Section 7(i) of the Court Fees Act, Court fees is payable in suits for money including that of damage shall be computed in accordance with the amount claimed therein. In the present case, considering the fact that the plaintiff had claimed damages to the tune of Rs.50 lakh from the defendant/petitioner he was required to pay ad valorem Court fees thereupon. Even as per established legal position the plaintiff was required to pay the said ad valorem Court



fee. It is accordingly submitted that the impugned order deserves to be set aside.

4. It is further submitted that the suit of the plaintiff deserved to be rejected also on the ground that the plaintiff had no cause of action. It is contended that the plaintiff had filed the present suit, claiming damages merely on account of the fact that the petitioner had made a complaint against the respondent/plaintiff to the Pollution Control Board in which the respondent was found to have committed offence and as such environmental compensation of Rs.3,45,000/- was imposed by the Board upon the respondent. It is submitted that the same does not constitute cause of action for filing of the present suit for damages. However, this aspect of the matter has also not been considered by the learned trial Court.

5. No other argument is raised on behalf of the petitioner.

6. Heard.

7. The first contention on part of the petitioner/defendant is that the respondent/plaintiff had claimed Rs.50 lakh by way of damages in the suit for damages (Annexure P2) dated 21.03.2023 filed by the plaintiff against the petitioner. It is established position in law that Court fee is to be assessed as per the damages claimed in the plaint. A perusal of the plaint (Annexure P2) reveals that in the entire plaint no damages whatsoever have been claimed or quantified. The prayer clause in the plaint reads as follows:-



*“It is, therefore prayed that a judgment and decree for damages of Rupees along with pendatlite and future interest @ 15% P.A. till its realization of which plaintiff found entitled may kindly be passed in favour of the plaintiff and against the defendants with costs of the suit.”*

8. At this stage, it is contended on part of the petitioner that the damages sought from the petitioner have been quantified by the plaintiff in the legal notice dated 15.02.2023 (Annexure P1) served upon the petitioner. However, I find no merit in the said argument of the learned counsel for the petitioner. It is well settled that for purposes of an application under Order 7 Rule 11 CPC, only the averments in the plaint can be considered. In this regard, I am in agreement with the following observations of the learned trial Court as contained in Para 8 of the impugned order, the relevant extract of which reads as follows:-

*“8.....In the present case, the perusal of the plaint as well as relief clause clearly shows that the plaintiff has not claimed any specific amount as damages in the entire plaint and has merely stated that he has suffered heavy loss due to the act of the defendant. Moreover in the prayer clause also the plaintiff has merely sought decree of damages alongwith interest @ 15% per annum and has not specified any amount of damages which are claimed by him. Since in the present case, the plaintiff has claimed unquantified amount of the damages, in the present case he is not required to pay advolerum court fee as no amount has been claimed by the plaintiff and merely damages are claimed which will be assessed by the Court at the time of final decision of the case.*



*At this stage, since the amount is not certain, the plaintiff cannot be directed to pay advolenum court fees on uncertain amount of money. Moreover the fact that the plaintiff has specified the amount of damages to the tune of Rs. 50,00,000/- in his legal notice dated 15.01.2023 will not make him liable to pay advolenum court fees in the present suit as at the time of deciding the application under Order 7 Rule 11 CPC, merely the contents of plaint are to be seen and nothing else. Thus, plaintiff in the present case was required to pay fixed court fees at this stage but when at the time of final determination of the suit, the specific amount if will be determined by the Court, then the plaintiff will be bound to pay proper ad-valorem court fees on the amount so assessed.”*

9. The issue regarding Court-fees in a suit for recovery of damages where damages have been quantified by the plaintiff, is no longer res integra and it stands undisputedly settled by the Hon’ble Supreme Court in case of **“State of Punjab and Others Vs. Dev Brat Sharma” Law Finder Doc Id # 1957286**, wherein Their Lordships of the Hon’ble Supreme Court have held that:-

*“Civil Procedure Code, 1908, Order 7, Rule 11 read with Section 151 - Suit for recovery as damages - Court fees - Rejection of plaint - Held, suit for damages, ad valorem Court-fees would be payable on amount of damages claimed - Dismissal of application for rejection of plaint on ground of deficient court fees set aside. (2012) SCC Online P&H 13081, relied on.”*



10. It is the next contention of learned counsel for the defendant that the plaintiff had no cause of action which called for rejection of the plaint. To substantiate his contention, learned counsel for the petitioner has contended that the plaintiff had filed the present suit, claiming damages merely on account of the fact that the petitioner had made a complaint against the respondent/plaintiff to the Pollution Control Board in which the respondent was found to have committed offence and as such environmental compensation of Rs.3,45,000/- was imposed by the Board. The said argument of the petitioner is liable to be outrightly discarded as it is again an established position in law that for rejection of plaint under Order 7 Rule 11 CPC only the averments made in the plaint are to be considered. Moreover, a perusal of the present application filed by the petitioner under Order 7 Rule 11 read with Section 151 CPC (Annexure P3) shows that no such ground has been taken by the petitioner.

11. The other ground taken by the petitioner in the said application is that the learned trial Court has no jurisdiction to entertain and try the present suit as complaint dated 04.09.2021 was moved by the petitioner to the Pollution Board at Karnal and proceedings in the same were conducted at Karnal. However, the said argument of the petitioner is also liable to be rejected as admittedly the plaintiff is residing at Panipat.

12. In view of the above, present petition is **dismissed**.



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

**20.01.2025**

Sunena

**(Nidhi Gupta)**

**Judge**

**Whether speaking/reasoned: Yes/No**

**Whether reportable: Yes/No**