



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(127)

CR No.20 of 2025 (O&M)
Date of Decision: 03.02.2025

Rashtriya Gaushala Dharoli

...Petitioner

Vs

Shree Gaushala Mandi Safidon

...Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Deepak Kundu, Advocate
for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

CM-1785-CII of 2025

The application is allowed as prayed for subject to all just exceptions. Document i.e., reply to the application filed for rejection of the plaint as Annexure P-5 is taken on record.

CR No. 20 of 2025.

The present revision petition is directed against the order dated 21.08.2024 passed by the Court of learned Civil Judge (Jr. Division), Safidon, vide which the application filed by the petitioner under Order 7 Rule 11 of the Code of Civil Procedure (for short the 'CPC') seeking rejection of the plaint was dismissed.

2. A suit for possession of land measuring 299 kanals 15 marlas (fully described in the plaint) situated within the revenue estate of village Dharoli, Tehsil Safidon, District Jind, was filed by the respondent-plaintiff (Shree Gaushala Mandi Safidon) against the present petitioner-defendant with consequential relief of permanent injunction restraining the petitioner-

defendant from alienating or transferring the suit land or from handing over the possession of the same to anyone.

3. An application under Order 7 Rule 11 CPC (Annexure P-2) was filed seeking rejection of the plaint on the ground of the plaint not disclosing any cause of action and *ad valorem* Court fee not having been paid, for, out of the total suit land measuring 299 Kanals 15 Marlas, 297 Kanals 14 Marlas was agricultural land, whereas 2 Kanals 1 Marla was *gair mumkin* land. The third ground was that the suit was barred by limitation.

4. The application for rejection of plaint was opposed by way of reply (Annexure P-5).

5. However, vide the impugned order, the application was rejected. As regards the cause of action and limitation, it was stated that the said questions would be decided at the relevant stage. As regards, the *ad valorem* Court fee, it was stated that since the land was agricultural land, only fixed Court fee was required to be paid.

6. I have heard learned counsel for the petitioner.

7. Learned counsel for the petitioner has referred to Section 7 (v) (c) of the Court Fees Act, 1870 and has submitted that in the present case, the value of the similarly situated adjoining land had to be determined for the purpose of Court fee. He submits that the Court concerned has decided the issue of Court fee by stating that in the case of an agricultural land, no Court fee was required to be paid. In support of his contentions, learned counsel has placed reliance upon the judgment of Orrisa High Court in **Uchhab Gouda and others Vs. Ganesh Panda, 1963, AIR (Orrisa) 71.**

8. I have considered the submissions made on behalf of learned counsel for the petitioner.

9. The primary grievance raised by learned counsel is that the Court concerned has held while holding the land to be agricultural that only fixed Court fee had to be paid, whereas in terms of provisions of Section 7(v) (c) of the Court Fees Act, 1870, the value of the adjoining land had to be determined. Insofar as the judgment relied upon by learned counsel for the petitioner is concerned, the same would not come to the aid of petitioner since it was not dealing with the application for rejection of plaint. It is settled law that an application for rejection of plaint has to be decided on the basis of plaint itself and nothing else has to be considered. In the plaint, it has duly been mentioned in paragraph 6 that the suit land is required by the plaintiff for growing green fodder as well as other feed for cows and oxen. It, therefore, merely states that the land is agricultural land. However, on the basis of the written statement filed by the plaintiff, an issue shall be framed as regards the Court fee also and if ultimately, the Court comes to the conclusion that Section 7 (v) (c) of the Court Fees Act, 1870 applies, it would take a decision accordingly. Since the Court was dealing only with an application for rejection of plaint, it was rightly held that at this stage the plaint could not be rejected.

In view of the aforementioned facts and circumstances, I do not find any merit in the present revision petition. The same is accordingly dismissed.

(VIKRAM AGGARWAL)
JUDGE

February 03, 2025

Rekha

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