



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-2815-2018(O&M)

Date of Decision: May 12, 2025

Kultar Singh and others

...Petitioners

Versus

Mann Singh Thakur

...Respondent

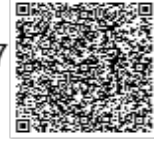
CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Ankur Bansal, Advocate
for the petitioners.

Mr.Jaswinder Singh, Advocate for
Mr.Sandeep Arora, Advocate
for the respondent.

ARCHANA PURI, J.

The petitioners have invoked the jurisdiction of this Court under Article 227 of the Constitution of India, thereby, making prayer for setting aside of the order dated 17.08.2017 (Annexure P-1) passed by learned trial Court, whereby, an application under Order 7 Rule 11 CPC filed by the petitioners (defendants before learned trial Court) for rejecting the plaint, was dismissed and also sought setting aside of the order dated 31.03.2018 (Annexure P-3) passed by learned trial Court, in the same suit, whereby, another application under Order 7 Rule 11 CPC, filed at the instance of the petitioners-defendants, for rejection of plaint, being time



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barred, was dismissed.

In pursuance of the notice issued, respondent (plaintiff before learned trial Court) made appearance through counsel.

Learned counsel for the parties heard.

The parties are referred to as making appearance before learned trial Court.

The material facts, to be noticed, as culled out from the paperbook are as follows:-

That, initially, the plaintiff had filed a suit against the petitioners-defendants, for recovery of damages to the extent of Rs.5,00,000/-. The defendants made appearance in the said case and filed an application under Order 7 Rule 11 CPC, thereby, making prayer for rejection of the plaint, for want of Court fee.

In the application, it was asserted that the plaintiff, in the suit had claimed an amount of Rs.5,00,000/- as damages and therefore, the plaintiff was required to affix *ad-valorem* Court fee, on the sum of Rs.5,00,000/-, which he has not done so and therefore, the plaint is liable to be rejected.

However, in reply, the plaintiff resisted the application, while asserting that principle of evaluation of the suit as in simple suit for recovery of liquidated claim, will not apply for the purposes of Court fee and in such case, the suit valuation put by the plaintiff has to be tentative and cannot be disputed, where the Court is unable to say what the correct valuation of the relief is and in such cases, plaintiff cannot be called upon to



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pay the entire Court fee, which is yet to be ascertained.

However, after hearing counsel for the parties, learned trial Court concluded that in the suit for claiming damages, the value has been assessed tentatively and it cannot be said that insufficient Court fee has been filed and therefore, the application was dismissed.

Being aggrieved, the petitioners-defendants have filed the revision petition in hand.

Heard.

Perusal of the paperbook reveals that the copy of the plaint, pending before the trial Court, has been placed on record as Annexure P-5. Close perusal of the same reveals that Mann Singh Thakur had filed a suit for recovery. The headnote of the suit, reads as herein given:-

“Suit for recovery of Damages to the tune of Rs.5,00,000/-, on account of damages, which includes compensation on account of loss of reputation, malicious prosecution and harassment etc. meted out by the plaintiff from the hands of the defendants.”

In the plaint, the plaintiff had grievance about the complaints filed at the instance of the petitioners-defendants and also about the institution of civil suit by the defendants against him, which was dismissed vide judgment dated 29.10.2015. It was asserted in the plaint that the defendants defamed the plaintiff in the society at large, by filing false and frivolous suit, as the plaintiff was summoned by the Court in the said suit and suffered a lot, on his position and reputation in the society. In the



prayer clause, again relief was sought for recovery of Rs.5,00,000/- together with interest. The relief clause, in verbatim, is reproduced, as herein given:-

“It is therefore prayed that the suit for recovery of an amount of Rs.5 lakhs along with interest at the rate 12% per annum till the realization, may kindly be decreed along with costs of the suit.

Any other relief, deem fit and proper by this Hon’ble Court may also be granted in favor of the plaintiff and against the defendants, in the interest of justice, equity and fair play.”

At the very outset, it is pertinent to mention that amount of Court fee is regulated by the Court Fee Act, 1870. Section 7 of the ibid Act, prescribes the procedure to compute the amount of fee payable in a suit. Where the suit is for money, including suit for damages or compensation or arrears of maintenance, of annuities, or of any other sums payable periodically, Section 7(i) lays down, as to how the amount of Court fee payable, is required to be calculated. Thus, it is evident that whenever the suit is for money, the Court fee is payable according to the amount claimed.

Section 7(i) is reproduced as herein given:-

“(i) In suits for money (including suits for damages or compensation, or arrears of maintenance, of annuities, or of other sums payable periodically)-according to the amount claimed;- (i) In suits for money (including suits for damages or compensation, or arrears of maintenance, of annuities, or of other sums payable periodically)-according to the amount claimed;” for maintenance and annuities.”

Thus, from the aforesaid, it is evident that whenever the suit is



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for money, the Court fee is payable according to the amount claimed. Under Order 7 Rule 11 CPC, the Court is required to carefully examine the contents of the plaint to arrive at a conclusion.

It is pertinent to mention that in the case in hand, the recovery of damages has been specified to the extent of Rs.5,00,000/-, which includes the compensation, on account of loss of reputation, malicious prosecution and harassment, allegedly meted out by the plaintiff from the hands of the defendants. Thus, it is evident that the amount has been specified by the respondent-plaintiff, on account of various grievances, as stated in the headnote of the plaint. Thus, it is evident that the recovery of definite amount has been sought.

In this regard, reference is made to the decision rendered by the Hon'ble Apex Court in *State of Punjab and others Vs. Dev Brat Sharma, 2022(2) RCR (Civil) 464*, wherein it has been categorically observed that in a suit for recovery as damages, *ad-valorem* Court fee, would be payable on the amount of damages claimed and dismissal of the application for rejection of plaint, on the ground of deficient Court fee, was set aside.

Adverting to the case in hand, it is pertinent to mention that on the plain reading of the plaint, it is apparent that relief sought is only limited to the amount of Rs.5,00,000/-. It is so mentioned in the headnote of the plaint, as well as in the prayer clause specifically. In the given circumstances, on this specified amount, the respondent-plaintiff Mann Singh Thakur, as such, is required to affix the Court.

Considering the same, the impugned order dated 17.08.2017

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warrants interference and hence, the same is set aside. Consequently, the application under Order 7 Rule 11 CPC filed by the petitioners-defendants is allowed and learned trial Court, as such, is further directed to give appropriate time to the respondent-plaintiff for affixing *ad-valorem* Court fee, on the amount, as specified in the plaint.

In the revision petition in hand, also an order dated 31.03.2018 has been challenged by the petitioners-defendants. During the pendency of the aforesaid suit only, the defendants had also filed another application under Order 7 Rule 11 CPC, for rejection of the plaint, on the ground that suit is time barred.

In the application, it was asserted that it has been specifically pleaded that the cause of action accrued against the defendants, when the defendants filed the suit against the plaintiff. As per Article 75 of the Limitation Act, suit for malicious prosecution for libel, could only be filed within one year from the date, when libel is published. Thus, it was required to be filed within one year, commencing 22.07.2011, which the plaintiff, failed to do so. Hence, the suit is time barred, as per the provisions of Article 75 of the Limitation Act.

However, in reply, various preliminary objections were taken. On merits, it was asserted that the cause of action accrued to the plaintiff against the defendants, when the suit was finally dismissed on 29.10.2015. Article 75 of the Limitation Act, as such, has been wrongly interpreted. The suit is within time, from the date of final disposal of the case, which was decided on 29.10.2015.

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After hearing counsel for the parties, vide impugned order dated 31.03.2018, the application, as such, was dismissed, while holding that the suit is covered under Article 74 of the Limitation Act.

Heard.

The suit in hand, was filed for seeking damages, on account of loss of reputation, malicious prosecution and harassment etc., meted out by the plaintiff from the hands of the defendants. In the plaint, it was asserted about the filing of a civil suit bearing No.52561/2013 by Kultar Singh against Mann Singh Thakur, which was decided on 29.10.2015. After the decision of the said civil suit, the suit in hand was filed, for seeking damages. Considering the contents of the suit, it is evident that it is for malicious prosecution, being aggrieved by the fact of filing of CS No.52561-2013, having filed at the instance of Kultar Singh.

Considering the same, definitely, the limitation is attracted as per Article 74 of the Limitation Act. May it be so, as now asserted in the plaint, the cause of action has been mentioned to have arisen, when the defendants had filed false and frivolous suit, against the plaintiff, in order to defame the plaintiff. Even though, it is so averred in the plaint, however, the cause of action accrued, after the decision of the civil suit and rather, it is after the prosecution is otherwise terminated, that the period of limitation of one year begins.

In the given circumstances, when the civil suit filed by Kultar Singh was dismissed, the cause of action accrued to file the suit for seeking damages, as done in the present suit. The previous suit was decided on

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29.10.2015 and the suit in hand, was filed on 20.07.2016, which is as such, within a period of one year, since the decision of the earlier suit.

Considering the same, the suit, as such, is not barred by time and hence, learned trial Court has appropriately dismissed the subsequent application under Order 7 Rule 11 CPC, vide impugned order dated 31.03.2018. Thus, the impugned order warrants no interference in exercise of the revisional jurisdiction.

In view of the aforesaid observations, the revision petition stands partly allowed.

May 12, 2025
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No