



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

**CR-4171-2023(O&M)
Date of decision: 24.09.2025**

Chamkaur Singh

... Petitioner

Versus

Vishal Dhawan and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Gagandeep Singh Virk, Advocate,
for the petitioner.

Mr. Vishal Aggarwal, Advocate,
for respondent No.1.

VIKRAM AGGARWAL, J. (ORAL)

CM-19645-CII-2025

Prayer in the present application preferred under Section of 151 CPC is for placing on record the application filed by the respondents/plaintiffs for filing the suit without affixation of ad-valorem court fee and short orders passed by learned Civil Judge as Annexures A-1 and A-2.

Heard.

For the reasons mentioned in the application, the same is allowed subject to all just exceptions. The application along with Annexures A-1 and A-2 is taken on record.

CR-4171-2023

The instant revision petition, preferred under Article 227 of the Constitution of India, assails order dated 26.04.2023 (Annexure P-6), passed



by the Court of Civil Judge (Jr. Divn.), Ludhiana, vide which the application moved by the petitioner/defendant under Order 7 Rule 11 of the Code of Civil Procedure, 1908 (for short, 'CPC') for rejection of the plaint was dismissed.

2. The facts, as emanating from the revision petition, are that the respondents/plaintiffs (Vishal Dhawan and others) instituted a suit (Annexure P-1) for possession by way of specific performance of an agreement to sell dated 11.09.2017 executed with regard to land measuring 3 kanals 6 marlas (fully described in the plaint), situated in the revenue estate of Village Dhandari Kalan, Tehsil and District, Ludhiana (hereinafter referred to as the '**suit land**').

2.1 The said suit was instituted without the requisite court fee and came up for the first time before the trial Court on 31.08.2021. The court fee was eventually affixed on 24.05.2022.

3. An application under Order 7 Rule 11 CPC (Annexure P-4) was moved by the petitioner/defendant for rejection of the plaint on the ground that since the court fee was paid on 24.05.2022, the suit had become barred by limitation.

3.1 The application was opposed by way of a reply (Annexure P-5), wherein it was averred that the suit was within limitation, as a request had been made to the Court to permit filing of the suit without the requisite court fee, with an undertaking that the court fee would be affixed as and when the same would be available.

4. By way of the impugned order, the said application was rejected, leading to the filing of the instant revision petition.



5. I have heard learned counsel for the parties.

6. Learned counsel for the petitioner has submitted that the impugned order is not sustainable. He submits that the agreement to sell was allegedly executed on 11.09.2017 and the date fixed for execution of the sale deed was 30.08.2018. The suit was filed on 27.08.2021 and the same was taken up for the first time by the trial Court on 31.08.2021. He further submits that the matter was, thereafter, adjourned on several occasions, but the requisite court fee was eventually filed on 24.05.2022, and by that time, the suit had become barred by limitation, since the period of limitation to file the suit was three years from 30.08.2018, i.e. the date fixed for execution of the sale deed.

6.1 Learned counsel submits that merely because the trial Court permitted the respondents/plaintiffs to deposit the court fee, would not mean that such permission was justified in law. In support of his contentions, learned counsel has placed reliance upon a decision of this Court, rendered in **Sukhpreet Kaur v. Shamsher Singh, 2015(8) RCR (Civil) 614.**

6.2 Learned counsel further submits that no application under Section 149 CPC was moved by the petitioner/defendant, which is the only provision under which extension in time could have been granted.

7. Per contra, learned counsel for the respondent(s) has submitted that there is no illegality in the impugned order. He submits that at the time of filing of the suit, an application had duly been moved seeking permission to file the suit without affixing *ad valorem* court fee, with an undertaking that the court fee would be affixed as and when it would be available. He further submits that the trial Court duly permitted the respondents/plaintiffs



to affix the court fee on 24.05.2022 and, therefore, the suit would not be barred by limitation. He also submits that even otherwise, on account of COVID-19, great difficulty was being faced in obtaining court fee, and the limitation period had also been extended by the Hon'ble Supreme Court of India. He contends that if the extension in the limitation period is considered, the suit could have been filed till 29.05.2022, whereas the court fee was affixed on 24.05.2022, meaning thereby that the suit was within limitation.

7.1 Learned counsel for the respondent(s) submits that the judgment relied upon by learned counsel for the petitioner is not applicable to the facts of the present case, since in that case no application seeking permission of the Court to extend the time for payment of court fee had been moved.

8. I have considered the submissions made by learned counsel for the parties.

9. The agreement to sell is stated to have been executed on 11.09.2017. The target date for execution of the sale deed was 30.08.2018. The suit was filed on 27.08.2021, accompanied by an application (Annexure A-1) seeking permission to file the suit without affixing the *ad valorem* court fee. The contents of the said application were as under:-

“1. That the plaintiffs intend to file suit for possession by way of specific performance of an agreement to sell along with alternative relief of recovery and for grant of permanent injunction.

2. That the court fee is not available today and there can be a problem of limitation for filing the suit



in case the plaintiffs/applicants wait for procuring court fee, which is not available today.

It is, therefore, prayed that the applicants/plaintiffs may please be allowed to file suit without affixing ad-valorem court fee and it is undertaken by the applicants that they would make the good of the court fee/affixed the court fee as and when available from the stamp vendors of the Court.”

10. A perusal of the aforesaid shows that due permission had been sought from the Court for filing the suit without the *ad valorem* court fee and it was undertaken that the court fee would be affixed as and when available from the stamp vendors. Mere non-mentioning of the specific provision, i.e. Section 149 CPC, would not affect the merits of the case, for it is well-known that in *mufassil* courts, pleadings are, on many occasions, not strictly in terms of the applicable provisions. This, in itself, would not affect the merits of the case nor constitute a ground to non-suit a party.

11. The suit came up for hearing for the first time on 31.08.2021. The trial Court directed the plaintiffs/respondents to make good the deficiency in court fee vide order dated 10.09.2021. Admittedly, the plaintiffs/respondents did not comply with the said order for the next 4/5 dates, and the court fee was eventually affixed on 24.05.2022. It has to be borne in mind that all this while, the Court had duly adjourned the case for filing of court fee.

12. Another thing which has to be borne in mind is that it was the period of COVID-19 pandemic. The second wave had just receded in August 2021, and the third wave had struck in January 2022. Even if the



period of extension of limitation is not considered, once the suit had been filed, the grant of permission by the trial Court cannot be said to be contrary to law. The trial Court, in its wisdom, granted more than sufficient opportunities to the respondents/plaintiffs to affix the court fee. This Court, thus, is not inclined to interfere with the discretion exercised by the trial Court.

13. The judgment in *Sukhpreet Kaur's case (supra)* would not come to the rescue of the petitioner for, in that case no application seeking permission to file the court fee at a later stage, had been moved and the suit had been filed with a deficient court fee. It was under these circumstances that a coordinate Bench held that merely because the trial Court had granted opportunities for payment of court fee, it would not justify the same and the suit would be barred by limitation.

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

15. Pending application(s), if any, also stands disposed of.

(Vikram Aggarwal)
Judge

September 24, 2025

Rajan

Whether speaking / reasoned:
Whether Reportable:

Yes/No
Yes/No