

**HIGH COURT OF PUNJAB AND HARYANA
CORAM: HON'BLE MRS. JUSTICE ALKA SARIN
Date of Decision: 03.04.2024**

CR No.1090 of 2024 (O&M)

Paras Dhawan ...Petitioner

VERSUS

Sachin Dhawan ...Respondent

Legislation:

Article 227 of the Constitution of India
Order VII Rule 11 of the Civil Procedure Code (CPC)

Subject: Revision petition under Article 227 of the Constitution of India against the dismissal of an application under Order VII Rule 11 CPC in a suit for specific performance of an agreement/affidavit related to property transfer.

Headnotes:

Specific Performance Suit - Court Fee Requirement - Dismissal of Application under Order VII Rule 11 CPC - Revision Petition under Article 227 of the Constitution - Challenge to the order directing the plaintiff to make good the deficiency in court fees - Plaintiff filed suit for specific performance of agreement/affidavit executed by defendant regarding property - Allegation that defendant agreed to execute transfer deed in favor of plaintiff - Defendant contended that ad valorem court fees not affixed - Plaintiff categorically stated no consideration amount passed - Court fees to be affixed according to consideration amount - No illegality or infirmity found in impugned order - Revision petition devoid of merit - Dismissed. [Paras 1-6]

Decision: Revision Petition Dismissed - Court finds no illegality or infirmity in the impugned order directing plaintiff to make good the deficiency in court fees - Revision petition devoid of merit - Dismissed. [Para 6]

Referred Cases: None mentioned.

Representing Advocates: Mr. Rahul Arora for the petitioner.

ALKA SARIN, J. (Oral)

1. This is a revision petition under Article 227 of the Constitution of India challenging the order dated 05.01.2024 whereby application filed by the defendant-petitioner herein under Order VII Rule 11 CPC for directing the plaintiff-respondent to make good the deficiency in the court fees has been dismissed.

2. The brief facts relevant to the present case are that the plaintiffrespondent, who is none other than the brother of the defendant-petitioner herein, filed a civil suit for a decree of specific performance of agreement/ affidavit dated 06.06.2019 executed by the defendant-petitioner herein in respect of half share of the shop/property situated at Post Office Street, Ferozpur City as fully described in the plaint. The suit was filed by the plaintiff-respondent on the ground that the defendant-petitioner had executed an agreement/affidavit dated 06.06.2019 in respect of half share of the shop/property situated at Post Office Street, Ferozpur City, which is alleged to be in possession of the plaintiff-respondent since the year 2008. It was the case set up by the plaintiff-respondent that the defendant-petitioner had executed an affidavit in his favour and as per the said agreement/affidavit the defendant-petitioner agreed to execute a registered transfer deed in respect of the shop in question in favour of the plaintiffrespondent when Neetu Dhawan, mother of the plaintiff-respondent and the defendant-petitioner, executed a transfer deed of the house situated in street Amritsarian Chowk, Arya Samaj, Ferozpur City in favour of the defendantpetitioner. After the mother had executed the registered transfer deed of the house in favour of the defendant-petitioner, the defendant-petitioner assured the plaintiff-respondent that he would execute the registered transfer deed in respect of half share of the shop in question in favour of the plaintiffrespondent at the earlier. However, since the same was not done the present suit was filed. During the pendency of the suit an application was filed under Order VII Rule 11 CPC for directing the plaintiff-

respondent to make good the deficiency in the court fees which application was dismissed vide the impugned order dated 05.01.2024.

3. Learned counsel for the defendant-petitioner would contend that it has specifically been stated in the written statement that the ad valorem court fees has not been affixed.
4. Heard.
5. The suit is for specific performance of an agreement/affidavit dated 06.06.2019 alleged to have been executed by the defendant-petitioner to register a transfer deed in favour of the plaintiff-respondent. In the plaint it has been stated that there was no amount which has been paid by the plaintiff-respondent to the defendant-petitioner qua the said property and that once there is no value which has been mentioned nor any transfer of the property has taken place, the question of affixing the ad valorem court fees would not arise. The court fees would have to be affixed according to consideration amount. However, in the present case in the plaint it has categorically been stated that no consideration amount has been passed. It is trite that at the time of deciding the application under Order VII Rule 11 CPC only the contents of the plaint are to be seen and the contents of the application or the written statement cannot be considered.
6. In view of the above, I do not find any illegality or infirmity in the impugned order. The present revision petition being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

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