

Title suit no.-137 of 2016

versus

20.02.2017 The record is placed for order on petition of defendant no.1 dated 24.10.16.

ORDER

The defendant no.1 has filed the present petition under section 7(4) (c) of the court fee Act and stated therein that the plaintiff has filed the present suit to get his share in schedule I and II property of the plaintiff and the plaintiff has also included the property of Smt. Indra Devi and valued the suit Rs. 5 lakh only whereas the property of khata number 102 and plot number 337, which measures 2 katha and also having pucca palatial building of worth Rs.35 lakh and also the property of this defendant obtained from Radha Kishun Sah bearing plot number 384, khata no. 73 is of worth Rs. 50 lakh, but the plaintiff has valued the suit only to the tune of Rs. 5 lakh, which is very low. It is further stated that the plaintiff has claimed share in the aforesaid two properties, which is of about Rs. 1 crore and out of which one property is in the name of stranger to the family while the other is of defendant number one and hence until and unless those sale deeds are not being set aside the alleged share to the plaintiff cannot be ascertained and allowed by the court and hence the plaintiff's share cannot be ascertained in the present suit until the aforesaid two sale deeds are not cancelled and hence it is prayed to direct to the plaintiff to pay ad valorem court fee over the suit property and if he fails to do the same the plaint of the plaintiff be rejected.

The plaintiff has filed rejoinder and submitted therein that the petition of the defendant no.1 is not maintainable on the ground that the plaintiff has filed the present suit for partition of the schedule I and II property of the plaint and value the suit at Rs. 5 lakh and paid a fixed court fee of Rs. 250/- as per section 7(iv)(b) of the court fee Act, 1870 and the plaintiff has not sought for any relief for recovery of possession of the land and hence the plaintiff has properly valued the suit as per suit valuation Act, and accordingly paid the court fee thereon as per court fee Act and it is prayed to reject the petition of the defendant no.1.

Heard the rival contentions of the parties and perused the case record and find out that the present suit has been filed by the plaintiff for getting a decree of partition and another relief for ad-

contd.....

Title Suit no.-137/2016

20.00.2017/contd.(2).....

interim injunction has also been sought for by the plaintiff which is not an independent relief rather dependant upon the principle relief of partition and hence it is a consequential relief and hence plaintiff would have to pay ad valorem court on the suit value.

Considering the discussion made above the present petition filed by the defendant no.1 is disposed off.

Put up the record for further proceedings on.....

Sub. Judge III