

IN THE COURT OF SHRI KULDEEP NARAYAN : ADDITIONAL
DISTRICT JUDGE-05 (West) TIS HAZARI COURTS, DELHI

CS No. 325/12

Satya Dev Verma & Ors

..... Plaintiffs

V.

Kanta Verma & Anr

..... Defendants

ORDER
04.07.2016

This order shall decide an application under Order 7 Rule 11 read with Section 151 CPC moved on behalf of the defendants seeking rejection of plaint stating, *interalia*, that the plaintiffs have grossly undervalued the suit and have not paid sufficient court fees in the present suit. Further, the market value of the suit property is around Rs.3 Crores, which falls into 'D' Category where circle rate is also much more than Rs.15 lacs, hence, the suit deserves dismissal due to under valuation and for not paying sufficient court fees.

2. The plaintiffs filed reply to the afore-said application denying its averments stating that the suit has been correctly valued for the purposes of

court fees and jurisdiction and appropriate court fees has also been paid by the plaintiffs. It is also stated that the plaintiffs are otherwise entitled to file a suit for mandatory injunction after termination of the license of the defendants and accordingly, the present suit for recovery of possession and mesne profits valued at Rs.15,25,000/- for the purposes of court fees and jurisdiction is maintainable.

3. Having heard the submissions on both sides, I find merit in the contentions of the counsel for the plaintiffs.

4. As per record, the plaintiffs filed the present suit against the defendants seeking recovery of possession of the entire premises situated on 2nd Floor (barsati) of property bearing H.No.7, Road No.33, East Punjabi Bagh, New Delhi. The plaintiffs also claim a sum of Rs. 25,000/- towards mesne profits/damages.

5. As per the plaint, the defendants have been termed as 'unauthorized occupants' in the suit property after termination of their license. The plaintiffs valued the suit at Rs.15,25,000/- for the purposes of court fees and jurisdiction on which a court fees of Rs.19,130/- was also paid. The suit is at the stage of defendants' evidence, which is yet to be concluded. So far, there is no material available on record to establish that the market value of the suit property is around Rs.3 Crores, as alleged by the

defendants.

6. The determination of market value of the suit property cannot be on mere submissions but, requires positive evidence to be led. As per the plaintiffs' version, the valuation of the suit property at Rs.15 Lacs on the date of filing of the suit is to be presumed to be correct unless contrary is proved. The law is settled that for the purposes of Order 7 Rule 11 CPC, only the averments of the plaint are to be considered. The defendants have not brought any material on record to substantiate their averments regarding market value of the suit property and the circle rate of the area where the suit property is situated. Hence, I do not find any merit in the application under Order 7 Rule 11 CPC moved on behalf of the defendants. The same stands dismissed.

The application under Order 7 Rule 11 read with Section 151 CPC is accordingly disposed of.

Announced in the open Court
on 04.07.2016.

(KULDEEP NARAYAN)
Additional District Judge-05
West Distt.Court Room No.33
Tis Hazari Courts, Delhi.