

ITEM NO.34

COURT NO.11

SECTION IVB

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).36177/2009

(From the judgement and order dated 07/07/2009 in  
of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

CR No. 51/2008

RAKESH KUMAR SAINI

Petitioner(s)

VERSUS

ANITA VAISHYA &amp; ORS.

Respondent(s)

(With office report )

Date: 16/07/2010

This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s)

Mr. A.K. Sachdeva, Adv.  
Mr. Harbans Lal Bajaj, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following  
O R D E R

This petition is directed against the order passed by the learned Single Judge of Punjab and Haryana High Court in C.R. No.51 of 2008 whereby he declined to interfere with the direction given by the trial Court to the petitioner to pay court fees in terms of Section 7(x) of the Court Fees Act, 1870 (for short, 'the Act').

We have heard learned counsel for the petitioner and perused the record including copy of the plaint, in which the

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petitioner has made the following prayers:

"(a) That this learned court may be pleased to pass an order for the specific performance of the agreement dt.15-02-2007 against defendant No.3.

(b) That this learned court may be pleased to order for the reimbursement of defendants No.1 and 2 out of the balance amount of Rs.35,00,000/- which is to be paid by the plaintiff to defendant No.3, as per the agreement dated 15.2.2007.

(c) That this learned court may be pleased to restrain defendants No. 1 and 2 to remove any of the machinery, fittings and fixtures of the impugned property and to do any act which may diminish the value of the impugned property."

Section 7(x) of the Act reads as under:

"7. Computation of fees payable in certain suits.- The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:-  
(i) to (ix).                    xxx                    xxx                    xxx

for specific performance.- (x) In suits for specific performance-  
(a) of a contract of sale - according to the amount of the consideration;

(b) of a contract of mortgage - according to the  
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amount agreed to be secured;

(c) of a contract of lease - according to the aggregate amount of the fine or premium (if any) and of the rent agreed to be paid during the first year of the term;

(d) of an award - according to the amount or value of the property in dispute;

Since the petitioner has prayed for specific performance of agreement dated 15.2.2007, the trial Court did not commit any error by directing him to pay the court fees on the value of the property in dispute and the High Court rightly refused to interfere with the order of the trial Court.

The special leave petition is accordingly dismissed.

(A.D. Sharma)  
Court Master

(Phoolan Wati Arora)  
Court Master