



2025:PHHC:002983-DB



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

RSA-3311-2013

Reserved on : 17.12.2024

Pronounced on : 13.01.2025

Sarwan Singh

.....Appellant

Versus

Jagmohan Singh

.....Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Argued by: Mr. G.S.Simble, Advocate for
Mr. R.K.Singla, Advocate
for the appellant.

Mr. P.P.Chahar, Sr. DAG, Haryana.

Mr. Maninderjit Singh Bedi, Addl. A.G., Punjab.

Mr. Amit Jhanji, Sr. Advocate with
Mr. Navjot Singh, Advocate
Mr. Shashank Shekhar Sharma, Advocate
Mr. Triyyambika, Advocate
for U.T., Chandigarh.

SURESHWAR THAKUR, J.

Factual Matrix of the case.

1. Initially a civil suit bearing No. 180 of 17.07.2006 was preferred by the plaintiff-Jagmohan Singh in the Court of the learned Addl. Civil Judge, Senior Division, Nakodar. The said suit became dismissed vide order dated 05.04.2010.

2. Feeling aggrieved, the plaintiff appellant filed an appeal thereagainst on 23.11.2010, thus before the learned Addl. District Judge,

2025:PHHC:002983-DB



Jalandhar. The said appeal was allowed and the suit of the plaintiff was decreed.

3. Feeling dis-satisfied from the afore verdict, wherebys the suit of the plaintiff became decreed, thus the defendant/respondent preferred thereagainst the instant second appeal before this Court.

4. While scrutinizing the appeal, the Registry of this Court has raised an objection with regard to the insufficiency of affixation of Court fee on the appeal. However, the learned counsel for the appellant had put an explanatory note, thus stating that proper Court fee has been affixed on the second appeal, and, further requested to put up the case as it is, before the Bench.

5. When the appeal was listed before the Bench concerned on 27.11.2013, the hereinafter extracted relevant submissions were made by the counsel for the appellant.

“Learned counsel appearing on behalf of the appellant has brought to the notice of this Court that the Court fee has been affixed on the appeal as per the Court Fees Act, 1870, as amended vide Punjab Act No. 7 of 1999 which was extended to the Union Territory, Chandigarh vide notification dated 20.07.2009. However, the registry has raised an objection with regard to insufficiency of Court fee on the ground that the Court Fees Act, 1870, as amended vide Punjab Act No. 7 of 1999, which was applicable in the Union Territory of Chandigarh has been further amended vide notification dated 25.01.2010, known as the Court Fees (Punjab Second Amendment) Act, 2009 and therefore, the appellant was required to affix the Court fee on the basis of Schedules I and II, as revised vide aforesaid Act of 2009.

Learned counsel for the appellant has further submitted that till date, the Union Territory of Chandigarh has not issued any notification extending the provisions of the Court Fees (Punjab Second

2025:PHHC:002983-DB



Amendment) Act, 2009 to the Union Territory, Chandigarh and therefore, the seat of the High Court of Punjab and Haryana being at Chandigarh, the amendments carried out by the State of Punjab in the Court Fees Act, 1870 vide Court Fees (Punjab Second Amendment) Act, 2009 cannot be made applicable and therefore, the Court fee has been affixed on the appeal rightly under the old provisions of the Punjab Act No. 7 of 1999, which continues to regulate the affixation of Court fees.

6. Thereafter, the learned Single Judge vide order dated 27.11.2013, rather after admitting the instant second appeal thus also framed the hereinafter extracted substantial question of law, for rendition of a decision thereons by a Larger Bench.

*“Whether the Court Fees (**Punjab Second Amendment) Act, 2009**, whereby rates of Court Fee mentioned in Schedule I and II have been revised, is to be implemented in the Registry of High Court in respect of cases originating from the State of Haryana, State of Punjab and Union Territory or the same has to be implemented after issuance of the notification by the Central Government extending the same to the Union Territory of Chandigarh, as the seat of High Court is situated at Chandigarh ?”*

7. Resultantly the instant larger Bench has been constituted under the orders of Hon'ble the Chief Justice, thus for rendering an answer to the hereinabove formulated substantial question of law.

8. At the outset, it is of utmost importance to refer to the constitutional provisions as carried in Articles 229(3), 230 and 231 of the Constitution of India. The said provisions are extracted hereinafter.

229. Officers and servants and the expenses of High Courts

(1) xxxx

(2) xxxx

(3) *The administrative expenses of a High Court, including all salaries, allowances and pensions payable to or in respect of the officers and servants of the court, **shall be charged upon the Consolidated Fund of the State, and any fees or other moneys taken by the Court shall form part of that Fund.***

2025:PHHC:002983-DB



230. Extension of jurisdiction of High Courts to Union territories

(1) Parliament may by law extend the jurisdiction of a High Court to, or exclude the jurisdiction of a High Court from, any Union territory.

(2) Where the High Court of a State exercises jurisdiction in relation to a Union territory:

(a) nothing in this Constitution shall be construed as empowering the Legislature of the State to increase, restrict or abolish that jurisdiction; and

(b) the reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts in that territory, be construed as a reference to the President.

231. Establishment of a common High Court for two or more States

(1) Notwithstanding anything contained in the preceding provisions of this Chapter, Parliament may by law establish a common High Court for two or more state or for two or more States and a Union territory.

(2) In relation to any such High Court,-

(a) the reference in article 217 to the Governor of the State shall be construed as a reference to the Governors of all the States in relation to which the High Court exercises jurisdiction.

(b) the reference in article 227 to the Governor shall, in relation to any rules, forms or tables for subordinate courts, be construed as a reference to the Governor of the State in which the Subordinate Courts are situate; and

(c) the reference in articles 219 and 229 to the State shall be construed as a reference to the State in which the High Court has its principal seat:

Provided that if such principal seat is in a Union territory, the references in articles 210 and 229 to the Governor, Public Service Commission, Legislature and Consolidated Fund of the State shall be construed respectively as references to the President, Union Public Service Commission, Parliament and Consolidated Fund of India.

9. Further, it is also of utmost importance to allude to the provisions of the Punjab Re-organization Act, 1966 (hereinafter for short called as the Act of 1966), relevant provisions whereof, are extracted hereinafter.

29. Common High Court for Punjab, Haryana and Chandigarh.—(1) On and from the appointed day,—

(a) there shall be a common High Court for the States of Punjab and Haryana and for the Union territory of Chandigarh to be called the High Court of Punjab and Haryana (hereinafter referred to as the common High Court);

(b) the Judges of the High Court of Punjab holding office immediately before that day shall, unless they have elected otherwise, become on that day the Judges of the common High Court.

(2) The expenditure in respect of salaries and allowances of the Judges of the common High Court shall be allocated amongst the States of

2025:PHHC:002983-DB



Punjab and Haryana and the Union territory of Chandigarh in such proportion as the President may, by order, determine.

87. Power to extend enactments to Chandigarh.—*The Central Government may, by notification in the Official Gazette, extend with such restrictions or modifications as it thinks fit, to the Union territory of Chandigarh any enactment which is in force in a State at the date of the notification.*

88. Territorial extent of laws.—*The provisions of Part II shall not be deemed to have effected any change in the territories to which any law in force immediately before the appointed day extends or applies, and territorial references in any such law to the State of Punjab shall, until otherwise provided by a competent Legislature or other competent authority, be construed as meaning the territories within that State immediately before the appointed day.*

89. Power to adapt laws.—*For the purpose of facilitating the application in relation to the State of Punjab or Haryana or to the Union territory of Himachal Pradesh or Chandigarh or any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent legislature or other competent authority.*

Explanation.—*In this section, the expression “appropriate Government” means—*

(a) as respects any law relating to a matter enumerated in the Union List, the Central Government; and

(b) as respects any other law,—

(i) in its application to a State, the State Government, and

(ii) in its application to a Union territory, the Central Government.

10. Moreover, it is also of utmost importance to allude to the relevant provisions as occur in the High Court Rules and Order, provisions whereof become extracted hereinafter.

Chapter 3-B, Part B of Volume I *of the High Court Rules and Orders contain the provisions with regard to value of the subject matter of suits for the purposes of appeal.*



***Chapter 3-C, Part C of Volume I** of the High Court Rules and Orders deals with the manner of determining the value of suits for purposes specified in Section 9 of the Suit Valuation Act, 1887.*

***Chapter 3-D, Part-D, Volume I** of the High Court Rules and Order further deals with the manner of determining the value of land for purposes of jurisdiction in certain class of suits.*

***Chapter 4-A, Volume IV** of the High Court Rules and Orders deals with Court Fees and Stamps and Part A thereof contains the provisions in respect of Reduction, Remission and Refund of Court Fee.*

***Chapter 4-B, Part-B, Volume IV** of the High Court Rules and Orders deals with description of stamps to be used for denoting fees chargeable under the Court Fees Act.*

11. A keen perusal of the afore provisions, as carried in the High Court Rules and Order, however, do not depict any clear position, with respect to payment of ad-valorem Court Fee in respect of the cases to be filed in the High Court of Punjab and Haryana, at Chandigarh, besides therefrom no crystalized position emanates, qua whether the provisions of the Court Fees Act, 1870, as amended vide the **Punjab Act No. 7 of 1999 which was extended to the Union Territory, Chandigarh vide notification dated 20.07.2009**, are applicable to the instant case and/or whether the provisions of **Court Fees (Punjab Second Amendment) Act, 2009** are applicable.

12. Be that as it may, in-so-far as the applicability of the apposite laws to the Union Territory of Chandigarh, thus are concerned,



it would be pertinent to mention here, that the Central Govt., in exercise of the powers conferred by supra extracted Section 89 of the Punjab Re-organisation Act, 1966, thus had enacted the Punjab Re-organisation (Chandigarh) (Adaptation of Laws on State and Concurrent Subjects) Order, 1968 (Published with the Notification dated 30.10.1968, Gazette of India, Extra-Ordinary, 1968, Part-II).

13. As per Clause 2(1)(b) of the 1968 Order, the existing law means any State Act or Provincial Act in force immediately, before the appointed day (defined in the said order to be 01.11.1966), in the whole or any part of the territories, as, now comprised in the Union Territory of Chandigarh and includes any Rules, Order, Bye-Law, Scheme, Notification or other instrument made under such State Act or Provincial Act, but does not include any law relating to a matter enumerated in the Union List.

14. Further, since as per Clause 3 of the said 1968 Order, thus from the appointed day, the existing laws and the Central Acts, as mentioned in the Schedule appended to the said order, rather until altered, repealed or amended by a competent legislature or other competent authority, thus became declared to have effectivity, but yet subject to the makings of adaptations and modifications theretos, as ordained by the Schedule or, if it is so directed, thus, upon the apposite laws standing repealed. Thus, in so far as the applicability of the Amendment Acts, as become enacted respectively by the State of Punjab or by the State of Haryana after 01.11.1966, qua the apposite



Central Act i.e. Court Fees Act, 1870, rather the same can be made applicable to the Union Territory of Chandigarh, only in two ways.

15. Firstly, as per Section 87 of the Punjab Re-organisation Act, 1966, the Central Govt. may, by notification in the Official Gazette, extend, but with such restrictions or modifications as it thinks fit, thus any competent state enactment, rather even to the Union Territory of Chandigarh. However, the effectivity of such an extension rather shall take place on the date of the making of the apposite notification.

16. Secondly, the Parliament, which is the Legislature concerned, thus for the UT of Chandigarh, may by way of passing an Extension Act, with such restrictions, omissions, modifications and amendments/additions etc., as made theretos, as it may deem fit and appropriate, rather extend the provisions of any of the Amendment Act(s) enacted respectively by the States of Punjab or Haryana after 01.11.1966, thus to the Union Territory of Chandigarh.

17. Thus, with the provisions of The Court Fees (Punjab Second Amendment) Act, 2009 (Punjab Act No.1 of 2010), rather become notified vide notification dated 07.01.2010, as, published in the Punjab Government Gazette (Extra) dated 07.01.2010, hence neither becoming extended to the Union Territory Chandigarh, by the Central Govt., by way of a notification issued under Section 87 of the Act of 1966 nor with the Court Fees (Punjab Second Amendment Act), 2009 (Punjab Act No.1 of 2010) notified vide notification dated 07.01.2010, published in the Punjab Government Gazette (Extra) dated 07.01.2010,



thus becoming extended to the Union Territory of Chandigarh, by way of an enactment of the Parliament or by an executive fiat.

18. Therefore, the said Amendment Act i.e. The Court Fees (Punjab Second Amendment Act), 2009 (Punjab Act No.1 of 2010), thus cannot, by any means be said to be applicable to the Union Territory of Chandigarh. As such, the said Court Fee Amendment Act of 2009 enacted by the State of Punjab, thus cannot ipso- facto, be deemed to be applicable to the UT Chandigarh, unless it became so extended to the UT of Chandigarh rather by the Central Government or by the Parliament, thus by any of the supra two methods.

19. Imperatively, since the said extension order, is not on record, thereby the provisions of the Court Fee Amendment Act of 2009, rather are not applicable to the cases filed in the civil Courts which are situated within the territorial domains of the Union Territory Chandigarh nor they are applicable to the decisions made thereovers and which result in the respective institutions thereagainst hence of the apposite first appeal or to the thereagainst reared second appeal, both supra being a continuation of the original suit.

20. Therefore, the said Court Fees Amendment Act of 2009, as becomes enacted by the State of Punjab, thus when reiteratedly is not applicable to the UT of Chandigarh, where becomes situated the principal Seat of the Hon'ble High Court of Punjab and Haryana and the Union Territory of Chandigarh. Consequently, in terms of the underlined expressions **“shall be charged upon the Consolidated Fund of the State, and any fees or other moneys taken by the Court shall form part of that**



Fund” as occur in Article 229 (3), whereby any fees even in the form of levying of Court fees, thus on the relevant motions, but becoming drawn before the High Court of Punjab and Haryana at Chandigarh, when becomes constitutionally declared to become part of the consolidated fund of the State. Therefore, unless the said Court Fees (Punjab Second Amendment) Act, 2009 became extended by the Central Government to the civil Courts which become located within the territorial domain of the Union Territory of Chandigarh, thereby, reiteratedly, the said Act was not applicable for the purpose of valuations of suits besides for the purposes of affixation of ad valorem court fees, on the relevant plaint, as becomes instituted before the civil Courts which became located within the territorial domain of the Union Territory of Chandigarh nor qua the subsequent motion reared against the decisions made thereovers by the civil Courts of competent jurisdiction thus court fees is to be levied in terms of the supra amendment.

21. Be that as it may, when in terms of the supra extracted Article 231 of the Constitution of India, besides with the thereunders proviso, thus therein making explicit expressions **“Consolidated Fund of the State shall be construed respectively as references to the President, Union Public Service Commission, Parliament and Consolidated Fund of India”**, thus a common High Court for the two States of Punjab and Haryana becomes created, besides also when the Union Territory of Chandigarh also becomes added onto the jurisdiction of the Punjab and Haryana High Court, thus with its principal seat at Chandigarh.



22. Therefore, on a combined reading of the supra Article 231 and also of the supra thereunders proviso, rather for all the reasons to be assigned hereinafter, but leads to an inference that any lack of extension by the Union Government qua the **Court Fees (Punjab Second Amendment) Act, 2009**, vis-a-vis the Union Territory of Chandigarh, yet does not materially affect the question relating to the affixation of proper Court fees on the plaint, which was instituted within the territorial domain of a civil Court of competent jurisdiction thus located within the State of Punjab.

23. Contrarily, the affixation of ad valorem court fees on the plaint which was instituted before a civil Court of competent jurisdiction rather located within the territorial domain of the State of Punjab, but was to be made in terms of the old provisions i.e. **Court Fees (Punjab Amendment) Act, 1999 (Punjab Act No. 7 of 1999)**. The said enactment has been adapted and extended by the Central Government to the Union Territory of Chandigarh vide notification dated 20.07.2009. Therefore, than in terms of the amended provisions, inasmuch as, the Courts Fees (Punjab Second Amendment) Act, 2009 but irrespective of the fact that the said amendment Act of 2009, thus in terms of Section 87 of the Act of 1966, rather remaining un-extended to the Union Territory of Chandigarh, through issuance of a notification by the Central Government. Contrarily, the court fees to be levied on the plaint instituted before a civil Court of competent jurisdiction, thus located within the territorial domains of the State of Punjab, hence was to be so levied in terms of the **Court Fees (Punjab Amendment) Act,**



2025:PHHC:002983-DB



1999 (Punjab Act No. 7 of 1999), as the civil suit became instituted in the year 2006, before a civil Court at Nakodar, besides when then the Punjab Act No. 7 of 1999 was in force.

Reasons for making the above inferences.

24. The generation of civil proceedings, is through, the institution of a plaint before the civil Court of competent jurisdiction. Moreover, Section 9 of the CPC, provisions whereof are extracted hereinafter, thus empowers the civil Court concerned to entertain a suit.

9. Courts to try all civil suits unless barred .-

The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

25. Nonetheless, the jurisdictional competence of the civil Court to entertain a suit is regulated by Section 20 of the CPC, provisions whereof are extracted hereinafter, besides the said instituted suit is not required to be falling within the mischief of Order 7 Rule 11 of the CPC, relevant provisions whereof become extracted hereinafter, as in the event of the civil suit falling within the mischief of Order 7 Rule 11 of the CPC, therebys, the plaint is required to be rejected.

20. Other suits to be instituted where defendants reside or cause of, action arises .-

Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction-

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally

2025:PHHC:002983-DB



works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

Order VII Rule 11

11. Rejection of plaint - *The plaint shall be rejected in the following cases:—*

(a) where it does not disclose a cause of action;

(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

[(e) where it is not filed in duplicate;]

[(f) where the plaintiff fails to comply with the provisions of rule 9:]

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.

26. In addition, if the plaint is insufficiently stamped, thereby, the said defect though is curable, but when there is either undervaluation of the suit for the purpose of affixation of Court fees, besides when the court fees as appended on the plaint, though is strictly in terms of the affixable court fees thereons. However, when the presentation of the plaint is done before a civil Court, which yet becomes not bestowed with the competent pecuniary jurisdiction to entertain the same.

2025:PHHC:002983-DB



Resultantly therebys, in terms of Order VII Rule 10 CPC, provisions whereof become extracted hereinafter, the plaint is required to be returned to the plaintiff rather for the same becoming presented before the Court, which has competent pecuniary jurisdiction to entertain the same and to also pronounce a judgment thereons.

Order VII Rule 10

10. Return of plaint.—(1) *[Subject to the provisions of rule 10A, the plaint shall] at any stage of the suit be returned to be presented to the Court in which the suit should have been instituted.*

[Explanation.— For the removal of doubts, it is hereby declared that a Court of appeal or revision may direct after setting aside the decree passed in a suit, the return of the plaint under this sub-rule.]

(2) *Procedure on returning plaint. —On returning a plaint, the Judge shall endorse thereon the date of its presentation and return, the name of the party presenting it, and a brief statement of the reasons for returning it.*

[10A. Power of Court to fix a date of appearance in the Court where plaint is to be filed after its return.—

(1) *Where, in any suit, after the defendant has appeared, the Court is of opinion that the plaint should be returned, it shall, before doing so, intimate its decision to the plaintiff.]*

(2) *Where an intimation is given to the plaintiff under sub-rule (1), the plaintiff may make an application to the Court-*

(a) *specifying the Court in which he proposes to present the plaint after its return,*

(b) *praying that the Court may fix a date for the appearance of the parties in the said Court, and*

(c) *requesting that the notice of the date so fixed may be given to him and to the defendant.*

(3) *Where an application is made by the plaintiff under sub-rule (2), the Court shall, before returning the plaint and notwithstanding that the order for return of plaint was made by it on the ground that it has no jurisdiction to try the suit,—*

(a) *fix a date for the appearance of the parties in the Court in which the plaint is proposed to be presented, and*

2025:PHHC:002983-DB



(b) give to the plaintiff and to the defendant notice of such date for appearance.

(4) Where the notice of the date for appearance is given under sub-rule (3),—

(a) it shall not be necessary for the Court in which the plaint is presented after its return, to serve the defendant with a summons for appearance in the suit, unless that Court, for reasons to be recorded, otherwise directs, and

(b) the said notice shall be deemed to be a summons for the appearance of the defendant in the Court in which the plaint is presented on the date so fixed by the Court by which the plaint was returned.

(5) Where the application made by the plaintiff under sub-rule (2) is allowed by the Court, the plaintiff shall not be entitled to appeal against the order returning the plaint.

10B. Power of appellate Court to transfer suit to the proper Court.— (1) Where, on an appeal against an order for the return of plaint, the Court hearing the appeal confirms such order, the Court of appeal may, if the plaintiff by an application so desires, while returning the plaint, direct plaintiff to file the plaint, subject to the provisions of the Limitation Act, 1963 (36 of 1963), in the Court in which the suit should have been instituted, (whether such Court is within or without the State in which the Court hearing the appeal is situated), and fix a date for the appearance of the parties in the Court in which the plaint is directed to be filed and when the date is so fixed it shall not be necessary for the Court in which the plaint is filed to serve the defendant with the summons for appearance in the suit, unless that Court in which the plaint is filed, for reasons to be recorded, otherwise directs.

(2) The direction made by the Court under sub-rule (1) shall be without any prejudice to the rights of the parties to question the jurisdiction of the Court, in which the plaint is filed, to try the suit.

27. In consonance therewith, the jurisdictional ability of the civil Court concerned, to entertain and to decide civil suits, thus becomes quartered within :

a) the pecuniary limits of the jurisdiction of the civil Courts of competent jurisdiction to entertain and to decide the same.



b) the territorial limits of the competent exercisable jurisdiction both to entertain and try the same, however is to be determined in terms of Section 20 (supra) as embodied in the CPC.

28. In essence therebys valuations of suits is made in terms of the Suits Valuation Act and also the corresponding theretos affixation of Court fees, on the plaint, but is also a necessary precursor, thus for making the plaint to be construable to be validly instituted, besides for conferring an able jurisdiction upon the civil Courts concerned, thus to make valid judgments/decrees thereons. Consequently, the trial Courts which are under the superintendence and control of the High Court, are required to be ensuring, that the valuation clause carried in the suits, does strictly adhere to the Suits Valuation Act, besides are also to be taking into account that the corresponding thereto Court fees becomes levied on the plaint. The above is to ensure the avoidings of recourings by the defendant, vis-a-vis the provisions as respectively embodied in Order 7 Rule 11 CPC and Order 7 Rule 10 of the CPC, provisions whereof respectively, relate to the rejection of the plaint and/ or qua the return of the plaint to the plaintiff, for the same being instituted before the civil Court of competent jurisdiction which otherwise, has the able pecuniary limits of jurisdiction to entertain and try the same.

29. Furthermore, when Article 229(3) of the Constitution of India, thus makes any court fees leviable on the plaint, to be forming part of the consolidated fund of the State concerned, therebys, the said sub Article also covers the trial Courts concerned, who work under the superintendence and control of the High Court. Necessarily therebys the



expression '*consolidated fund of the State concerned*', is to be employed the meaning, qua the fine nuance thereof, but is that, the levying of fees on the plaint, thus is to be done in terms of the respective enactments made by the State legislatures within whose domains the civil Courts of competent jurisdiction, thus become located.

30. In addition, since as supra stated, the charging of court fees, is in terms of the Suit Valuations Act and also in terms of the corresponding thereto provisions as embodied in Court fees Act, as respectively, enacted by the Union Parliament or by the respective amendments therein being made by legislatures of the States concerned, thereby, when to the supra underlined expression, the supra meaning becomes assigned, thus would make the hereinabove inferences relating to the court fees to be affixed on the plaint becoming regulated by the relevant enactment, yet on the yardstick that the relevant enactment evidently covers the territorial domains of the legislature concerned within whose territorial domains the civil Court of competent jurisdiction becomes located.

Further reasons for answering the reference against the Union of India.

31. The High Court of Punjab and Haryana, is created in terms of the supra extracted Section 29 of the Act of 1966, which becomes enacted in terms of the supra extracted Article 231, as becomes borne in the Constitution of India. The said Article empowers the creation of a common High Court, thus for two or more States or for two or more States and for a Union Territory, as has instantly happened, thus on the creation of the Punjab and Haryana High Court, whose apposite



jurisdictional domain covers not only the territories of Punjab, Haryana but also the Union Territory of Chandigarh, yet with its principal seat being located at Chandigarh, which however is within the territorial jurisdiction of the Union Government.

32. As such, the levying of Court fees on a plaint, thus is to occur in terms of Sub Article (3) of Article 229, besides when the said charged court fees, thus is stated to be forming a part of the consolidated fund of the State. Therefore, when the jurisdictional domain of the Punjab and Haryana High Court, thus covers the territories of Punjab, Haryana and the Union Territory of Chandigarh. As such, the levying of Court fees on the plaints, which are respectively instituted before the civil Courts of competent jurisdiction, thus respectively located within the territories of Punjab, Haryana and Union Territory, Chandigarh, but when obviously are made chargeable upon the respective consolidated funds of the supra States.

33. Therefore, when civil suits, thus become filed before the civil Courts of competent jurisdiction located within the territories of State of Punjab, therebys, the Court Fees Act, 1870, as amended vide Punjab Act No. 7 of 1999, which was extended to the Union Territory, Chandigarh, vide notification dated 20.07.2009, thus was applicable. However, with a rider that unless the subsequent thereto made amendment was also adapted by the Union Government, therebys the earlier adaptation as made by the Union Government vis-a-vis the Punjab Act No. 7 of 1999, but becoming the relevant regimen even for determining the affixation of court fees on the plaints, which are filed



before the civil Courts of competent jurisdiction, which are located within the territories of Union Territory of Chandigarh. The said notification made by the Central Government is extracted hereinafter.

Ministry of Home Affairs

Notification

New Delhi, the 20th July, 2009

*G.S.R. 538 (E) – In exercise of the powers conferred by Section 87 of the Punjab Reorganization Act, 1966 (31 of 1966), the Central Government **hereby extends to the Union Territory of Chandigarh, the provisions of the Court Fees Act, 1870 (7 of 1870), as amended by the Court Fees (Punjab Amendment) Act, 1999 (Punjab Act No. 7 of 1999)** as in force in the State of Punjab on the date of publication of this notification, subject to the following modifications in the Court Fees (Punjab Amendment) Act, 1999, namely :-.....”*

34. However, since the subsequent amendment made to the Court Fees Act, 1870 by the Punjab State **through the Court Fees (Punjab Second Amendment) Act, 2009**, thus was not extended to the Union Territory of Chandigarh by the Central Government. Therefore, the said lack of extension being granted by the Central Government, to the said Act, vis-a-vis the Union Territory of Chandigarh, but is inconsequential, vis-a-vis the affixation of court fees, initially on the plaint and vis-a-vis the thereafter raised motions as reared against the decisions made on the initial motion by the civil Court of competent jurisdiction. The reason for stating so is hereunder.



35. Primarily, since the decisions made on the civil suits, thus leads to the institutions thereagainst of the first appeals and also of the second appeals, besides when both the first appeal and the second appeal are but a continuation of the original suit. Resultantly, since the second appeals as become generated from any civil suit, as become respectively instituted within the territorial domains of the State of Punjab, Haryana and U.T., Chandigarh, therebys, the levying of court fees respectively on the first and second appeal, thus are respectively to be governed by the enactments, as respectively made by the State of Punjab, Haryana and Union Government.

36. In other words, the levying of court fees, on second appeals which are but a continuation of the civil suits, is to be done strictly in terms of the relevant enactments/amendments, as validly made to the Court Fees Act, 1870, thus by the competent State legislatures.

37. The ire conundrum which is required to be put to a rest, relates to the instant pivotal aspect, qua when the instant suit became so generated, before a civil Court located within the territorial domains of the State of Punjab, inasmuch as, the civil suit becoming filed before the civil Court, Nakodar, whether thereons the levying of court fees, and on the thereafter continued second appeal, thus was to be so levied in terms of the **Court Fees Act, 1870 as amended vide Punjab Act No. 7 of 1999** which was made applicable by the Central Government to the Union Territory of Chandigarh, thus through the making of an extension notification (supra), and/or, whether it was leviable in terms of the **amended provisions inasmuch as, the Court Fees (Punjab Second**



Amendment Act) 2009, which however was not extended by the Central Government to the Union Territory, Chandigarh.

38. The trite answer to the above conundrum becomes borrowed from the factum, that it is not to be dealt singularly, on the anvil of the proviso (supra) as borne in Article 231. The reason for stating so, is garnered from the factum that in terms of Sub Article (1) of Article 231 of Constitution of India, the Union Parliament has enacted the Act of 1966, whereby a common High Court becomes created for the States of Punjab and Haryana and also for the Union Territory Chandigarh, and when at Chandigarh, thus becomes created the principal seat of the Punjab and Haryana High Court.

39. Therefore, the relevant provisions which, thus create an exception to the proviso, which occurs in Article 231, are the ones which become carried in Section 89 of the Act of 1966. Though sub Article (3) of Article 229 of the Constitution, makes the leviable court fee on the plaint, thus to be charged on the consolidated fund of the State concerned. However, since as stated (supra) the principal seat of the High Court of Punjab and Haryana, falls within the jurisdiction of the Union Territory of Chandigarh, thereby, since the proviso to Article 231 (supra) echoes, that any reference made in Article 210 and 229 respectively to the Governor, Public Service Commission, Legislature and Consolidated Fund of the State, shall be construed respectively as references to the President, Union Public Service Commission, Parliament and Consolidated Fund of India. Moreover, though prima facie, thereby the court fees to be levied on the plaint, is to be so levied



thus in terms of the Court Fees Act, 1870 enacted by the Union Parliament.

40. Moreover, though *prima facie*, in terms of Section 89 of the Act of 1966, whereby becomes invested power respectively in the States of Punjab, Haryana and in the Union Territory of Chandigarh, to before the expiration of two years, from the appointed date, make such adaptations, modification(s) vis-a-vis the then existing laws, whether by repeal or amendment, as may be necessary or expedient. Since therebys, through the exercisings of the said bestowed empowerment, but before the expiry of two years from the appointed date, thus the States of Punjab, Haryana and the Union Government, were required to make adaptation, modification(s) qua the apposite existing law, through the makings of repeals or amendments thereto, which if not made, whereby, the then existing laws were to be in continuum. However, when the State of Punjab has amended the Court Fees Act, 1870 vide Punjab Act No. 7 of 1999, which was extended to the Union Territory, Chandigarh vide notification dated 20.07.2009.

41. In addition, if thereto no repeals or amendments became made by the competent authority, therebys the existing laws as were in operation within the combined territories, rather are deemed to be holding force, thus in the areas falling within the territorial domains of the States of Punjab, Haryana and U.T., Chandigarh, as become created through enactment (*supra*).

42. Therefore, it has to be discerned as to whether prior to the coming into force of the Act of 1966, thus in terms of the *supra* therein



occurring provision, rather within the territories of the then undivided State of Punjab, qua what statute was in existence, thus governing the valuations of suits and also for the purpose of levyings of corresponding thereto court fees, on the plaints, as become instituted in the un-divided territory of Punjab.

43. In the said regard, it is clearly discernable, that the said law was the Court Fees Act, 1870. Therefore, unless the Union Government before the expiration of two years from the appointed date, by an order rather adapted the said apposite regulatory mechanism or made modifications theretos, through the passing of competent legislations, therebys, the said Act did become the governing regimen. In other words, the Court Fees Act, 1870, became applicable even to the Union Territory of Chandigarh, where the principal seat of the Punjab and Haryana High Court is located, and which also is a part of the Punjab and Haryana High Court, unless the supra amendments as made thus also became adapted by the Central Government.

44. Therefore, it appears that the supra inferences, would fall in alignment and would also become well harmonized with the mandate which occurs in the proviso to Article 231, wherebys, the levying of court fees, is to be charged onto the consolidated fund of India, but vis-a-vis the State or the Union Territory concerned. Consequently, the supra expressions also permit the creation of an able regulatory regimen for purposes (supra). The reason being that each of the States of Punjab, Haryana and Union Territory, Chandigarh, thus are the combined territories, thus whereovers this High Court rather has assumed an able



jurisdictional competence. Therefore, reiteratedly when suits are instituted within the territories of each of the supra, thereby, their respective legislatures are the ones which create the regimen for purposes (supra).

45. Be that as it may, importantly the necessity of amendments/adaptations or repealing thereof being made to the earlier existing laws, operating in the then un-divided State of Punjab, especially when rather for absences thereof, the said laws would continue to hold operation in the newly created States of Punjab, Haryana and the Union Territory, Chandigarh, but became aroused, thus for the purposes of valuation of suits and also for the levying of ad valorem court fees thereon. Moreover importantly, the site of institution of suits, inasmuch as, the institution of suits occurring, thus respectively in the civil Courts respectively located within the States of Punjab, Haryana and Union Territory of Chandigarh, but was also the imperative norm.

46. Since as stated (supra), the second appeals are a continuation of the suits. Therefore, if the suits became instituted respectively within the territorial limits of the States of Punjab, Haryana and Union Territory, Chandigarh. Resultantly, in the second appeals as arose from decisions becoming recorded by the civil Courts, thus located within the territorial jurisdiction of the supra, but required that the Court fees leviable on the second appeal, thus is to be determined in the manner alike the one, as became affixed on the plaints, which



became respectively instituted before the civil Courts concerned, thus located within the territories (*supra*).

47. As such, if the instant civil suit became instituted on 17.07.2006, within the territory of the State of Punjab, therebys, the valuation of the civil suit, both for the purposes of jurisdictional competence besides for the purpose of affixation of court fees thereons, was to be determined in terms of the Court Fees Act, 1870 as amended by the State of Punjab, vide Punjab Act No. 7 of 1999, which was then in existence in the State of Punjab. However, when civil suits became instituted before the civil Courts rather located within the Union Territory of Chandigarh, thereupons, the valuation of the suits both for the purpose of jurisdiction and for affixation of Court Fees thereons, rather was to be made respectively in terms of the Suit Valuation Act and also in terms of the Court Fees Act enacted by the Union Parliament. Moreover, when in terms of the *supra* provision existing in Section 89 of the Act of 1966, whereby unless the earlier apposite rule regimen, rather regulating the valuations of the suits and the affixations of corresponding Court fees thereons, became repealed or adapted, thereupons, there was continuity of operation of the said regimen, even to the Union Territory of Chandigarh, which was earlier a part of the undivided Punjab and became created through the Act of 1966.

48. In the said regard, it is abundantly clear that there exists no material on record. If so, the effect of no administrative order becoming passed by the Union Government, whereby, it repealed the *supra* Act, is that, the said Act continues to hold operation. However, when yet a



2025:PHHC:002983-DB



perusal of records reveals, that the Central Government made the hereinafter extracted adaptation order, whereby, the Punjab Act No. 7 of 1999, became adapted by the Central Government whereby vis-a-vis the valuation of court fees, on the suits which became instituted in the civil Courts located within the Union Territory of Chandigarh, was to be regulated in terms thereof. Since the said adaptation is evidently in terms of Section 87 of the Act of 1966 and therefore acquires validity.

“2. (1) *In this Order,*

(a) *“appointed day” means the 1st day of November, 1966;*

(b) *“existing law” means any State Act or Provincial Act in force immediately before the appointed day in the whole or any part of the territories now comprised in the Union Territory of Chandigarh and includes any rule, order, bye-law, scheme, notification or other instrument made under such State Act or Provincial Act, but does not include any law relating to a matter enumerated in the Union List;”*

3. *As from the appointed day, the existing laws and the Central Act mentioned in the Schedule to this Order shall, until altered, repealed or amended by a competent legislature or other competent authority, have effect subject to the adaptations and modifications directed by the Schedule or, if it is so directed, shall stand repealed.”*

49. The cullings of import of the supra extracted order, thus passed by the Union Government, is that, the Union Government, when thereunders had, but from the appointed day, thus declared that the Central Acts, as, mentioned in the schedule appended to the supra order, until altered, repealed or amended by a competent legislature, but would have effect, subject to the makings of adaptations and modifications theretos, as directed by schedule. Therefore, the further inference to be marshalled therefroms, but is that, if the central statute relating to the affixation of the court fees, on the plaint, when becomes instituted



before the Courts located within the Union Territory, Chandigarh, is the Central Court Fees Act, and/or therebys unless the said statute became repealed by the Union Government, whereas, with the said statute remaining un-repealed by the Union Parliament. Resultantly, if the said statute was permitted to remain in force, through lack of repeal, or adaptation thus being made by the Union Government, therefore, the supra Act was applicable to the now created Union Territory of Chandigarh, as the Union Territory of Chandigarh, was created from the earlier un-divided Punjab.

50. In the said regard, it is clear that rather post the coming into force of the Act of 1966, with Section 87 occurring therein, though the Union Government adapted the Court Fees (Punjab Amendment) Act, 1999 (Punjab Act No. 7 of 1999), but has not adapted the Court Fees (Punjab Second Amendment) Act, 2009, whereupon, the Punjab Act No. 7 of 1999 is extended to Union Territory of Chandigarh, but the (Punjab Second Amendment) Act, 2009, is not extended thereto. In other words, though even to the Union Territory of Chandigarh, the apposite adaptation became made by the Union Government, but it was so made, vis-a-vis the Court Fees (Punjab Amendment) Act, 1999 (Punjab Act No. 7 of 1999). Resultantly therebys, the said adaptation was to be applied even to the suits as become instituted from the year 1999 upto 2009, thus in the Courts which fell within the territorial domain(s) of the Union Territory of Chandigarh. Resultantly with the making of a valid adaptation by Union Government to the Court Fees (Punjab Amendment) Act, 1999 (Punjab Act No. 7 of 1999), therebys, the



levying of court fees on the plaint which became instituted in the civil Courts located within the territorial domains of the Union Territory of Chandigarh but was required to be regulated by the aforesaid adaptation, as made by Central Government vis-a-vis the supra Act, unless the said adaptation became modified by the Central Government.

51. However, since the Court Fees (Punjab Second Amendment) Act, 2009 remained unadapted by the Union Government, therebys, the lack of adaptation by the Union Government vis-a-vis the supra Act, to the Union Territory of Chandigarh, but made it inapplicable qua those suits which became filed before the Courts located within the Union Territory of Chandigarh. Contrarily, the adaptation as made by the Union Government vis-a-vis the Punjab Act No. 7 of 1999, regulated the manner of affixation of court fees, on the plaints, as became instituted before the civil Courts of competent jurisdiction located, within the Union Territory of Chandigarh, even if the said suits become instituted post the year 2009, especially when the said modification was not adapted by the Central Government.

52. Be that as it may, since as stated (supra), the apposite reckoner, thus for the purposes of the valuations of suits and also for the purpose of corresponding thereto affixation of Court fees thereons, thus becomes borrowed, but from the site or the venue, wherebefores, a civil suit becomes instituted. Therefore, since in the instant case, the venue of the Court, wherebefore the instant civil suit became instituted, was occurring within the territories of the State of Punjab, as becomes created through the Act of 1966. Consequently, therebys since the



second appeals are a continuation of the suit, therebys, adaptation or non adaptation of the amendment (supra) rather by the Union Government, rather is inconsequential. Moreover, therebys, irrespective of the fact that the seat of the High Court of Punjab and Haryana rather is located within the Union Territory of Chandigarh, yet, reiteratedly given the origin of the suit, rather happening within the territorial limits, of the civil Court, thus located within the State of Punjab, therebys, the court fees leviable on the second appeal, is to be so levied, thus in terms of the court fee as became levied on the original plaint, as became instituted at Nakodar, which reiteratedly falls within the territorial domain of the State of Punjab.

Conclusions from the above.

53. a) the time and venue of the origin of the civil suit, is the relevant factor for determining the affixation of court fees on the plaint. Moreover, since the second appeals are a continuation of the suit, therefore, the court fees leviable on the second appeal, is to be governed in terms of the statute of the concerned State, as existed at the time of filing of the civil suit, but **irrespective of adaptation or non adaptation of the same by the Union Parliament, besides irrespective of the fact that the seat of the High Court of Punjab and Haryana is located within the Union Territory of Chandigarh.**

b) since in the instant case, the suit was filed in the year 2006, in the civil Court, Nakodar, therefore, the relevant applicable statute appertaining to the affixation of Court Fees on the



plaint, besides on the second appeals, thus was the old Act i.e. Punjab Act No. 7 of 1999. Conspicuously when the said was the relevant statute at the phase of the filing of the plaint. Moreover, the amendments as made to the said statute are also to be governing the issue, appertaining to affixation of court fees on the second appeals, as arise from decisions made over the civil suits by the civil Courts of competent jurisdiction. However, as stated (supra), the further reckoners being :

(i) the date of institution of the suit is of conspicuous importance.

(ii) the statute in operation at the said phase being also of utmost/grave importance.

(iii) the fees leviable on the plaint being in terms of the then in effect statute, further regulating the affixation of fees on the subsequent motions, as generated from the decisions made over the civil suits by the civil Courts of competent jurisdiction

(iv) The court fees to be levied on the civil suits filed in the civil Courts of competent jurisdiction respectively located within the territorial domains of Punjab, Haryana and Union Territory are to be as stated (supra) thus governed by the relevant statutes (supra) and adaptations, modifications as made theretos.

c) However, qua the suits which are filed before the Civil Courts located within the territories of the State of Punjab, thus **post the coming into force of the amendment, as made to the relevant**



statute by the State of Punjab, inasmuch as, to the Court Fees (Punjab Second Amendment) Act, 2009, thus on such filed civil suits, the court fees which is to be affixed thereons, besides the court fees to be affixed on the second appeals filed before this Court, as arise from decisions made over the original civil suits by the civil Courts of competent jurisdiction, located within the territories of the State of Punjab, thus is to be governed by the Court Fees (Punjab Second Amendment) Act, 2009, but irrespective of the same being adapted or not adapted by the Union Parliament, besides irrespective of the fact, that the seat of the High Court of Punjab and Haryana is located at Chandigarh which is a Union Territory.

d) The reason being that the supra expressions, as occur in Article 229 (3), when make the levying of court fees, to be charged on the consolidated fund of the State concerned, therebys, the State concerned is construed to be the State, within whose boundaries the civil suit is filed. Resultantly when as stated supra, the venue of the civil suit, besides the time of the institution of the civil suit, is the reckonable factor, for determining the affixations of court fees on the plaint, besides when the second appeals are a continuation of the suit. In sequel, when the instant suit originated within the territories of the State of Punjab, and, was so filed in the year 2006, especially when then the old Act, Punjab Act No. 7 of 1999 was in force. As but a natural corollary thereto, the court fees to be appended on the second appeal was to be in the amounts similar to



2025:PHHC:002983-DB



the one as became appended on the original suit, as became instituted in the year 2006, before the civil Court located within the territorial domain of the State of Punjab.

e) Moreover, reiteratedly in respect of levying of court fees on the civil suits originating, from the Courts located within the territories of the State of Haryana and the U.T., Chandigarh, the regulatory mechanism is/are the respective enactments, amendments, adaptations or modifications, as made by the respective State legislature of the State of Haryana and/or by the Union Government in case of U.T., Chandigarh.

54. In aftermath, the supra answer is rendered to the supra reference. The instant second appeal is held to be maintainable, inasmuch as, the Court fees has been appropriately affixed on the same, in terms of the Old provisions/amended Act i.e. the Punjab Act No. 7 of 1999.

55. List the case, as per roster for deciding the same on merits.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

13.01.2025
kavneet singh

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No