

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAI PUR BENCH, JAI PUR**

ORDER

**S. B. Civil Writ Petition No. 14363/2011
S. B. Civil Msc. Stay Application No. 13192/2011**
Bhagwan Sahai V/s. Nand Kishore Saini & Anr.

Date of Order : 31st October, 2011

HON BLE MR. JUSTICE MAHESH BHAGWATI

Mr. D. K. Bhar dwaj , for the petitioner.

Heard the learned counsel for the petitioner and carefully perused the relevant material on record including the impugned order dated 9th August, 2011, rendered by the learned Additional Civil Judge (Jr. Division), No. 4, Alwar.

2. The only argument, put forth by the learned counsel for the petitioner is that the learned trial court did not observe as to how much of the court fee was deficient, which was required to be paid by him in the court. The impugned order is silent about this fact, hence, the same deserves to be set aside.

3. Having scanned the impugned order dated 9th August, 2011, it is noticed that the learned trial court, by way of the impugned order adjudicated the issue no. 3 framed by the court, which runs as under:-

“क्या वादी ने न्यायशुल्क सम्यक चस्पा नहीं किया है, अतः वादी का दावा खारिज किये जाने योग्य है?”

4. The Learned trial court, albeit, is found to have dealt with the issue in Paragraphs. 12, 13, 14 and 15 of the impugned order, but it is nowhere mentioned, as to what was the valuation of the suit and how was under value. It is also not mentioned in the impugned order, as to how much of the deficient court fee was required to be paid by the petitioner-plaintiff to correct the valuation of the suit. The Learned trial court is found to have passed the impugned order cursorily sans any particulars with regard to the correct valuation of the suit. The impugned order seems to be non-speaking, which does not convey any meaning, hence, the same deserves to be set aside and the matter is required to be remitted to the Learned trial court for deciding the issue no. 3 afresh, in accordance with the provisions of law.

5. For the reasons stated above, the writ petition succeeds and the impugned order dated 9th August, 2011 with regard to the adjudication of the issue no. 3 stands

set aside and the matter is remitted to the court of Additional Civil Judge (Jr. Division), No. 4, Alwar, with the direction to decide the issue no. 3 afresh, in accordance with the law, within a period of one month from the date of receipt of this order.

6. Consequent upon the disposal of the writ petition, the stay application does not survive and the same also stands disposed of, accordingly.

(MAHESH BHAGWATI), J.