

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR No. 1489 of 2014 (O&M)
Date of decision: March 19, 2015

Amar Khurana

...Petitioner

Versus

Mahabir Parsad

...Respondent

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Mani Ram Verma, Advocate,
for the petitioner.

K. KANNAN, J. (Oral)

1. The revision petition is against the dismissal of the appeal, the subject matter of which was ₹20,000/-. The claim was based on a pronote and the contention was that the additional amount of ₹20,000/- over ₹1 lac on which the plaintiff had claimed as *pagri* to vacate the property held by him as a tenant to be handed over to the defendant. The defendant also pleaded that he had paid an additional amount of ₹10,000/- and the remaining ₹10,000/- was not paid at all since it was an illegal claim. The appellate court rejected the contention and found that the plea of full discharge as made by the defendant was not established.

2. If there is no provision for a second appeal by virtue of bar under Section 102 of the Code of Civil Procedure, then the statute casts the curtain down for any person who seeks for adjudication before the High Court for a claim which is less than ₹25,000/-. What is not permissible

under Section 102 cannot be brought under Article 227 of the Constitution or Section 115 of the Code.

3. However, the test of admissibility were to be examined on the ground of error of jurisdiction or failure of substantial justice, the tests laid down under Section 115 of the Code of Civil Procedure and I will find no error or jurisdiction or an illegal exercise thereof as established for intervention. If it were to be considered under Article 227 of the Constitution, there must be patent illegality of the order which would require intervention. A finding by the appellate court confirming the decision of the trial court that there had been no failure of consideration and that the plea of discharge of the loan has not been established ought to be taken only as adjudication on pure question of facts which will be incapable of being examined by this court under Article 227 of the Constitution. I decline to make any intervention. There is also a delay in filing the revision taken as a revision under Section 115 of the Code. I have heard the case on what merits the counsel wants to advance and dismiss the revision not merely on the issue of delay but substantially as not competent.

3. The revision petition is dismissed.

March 19, 2015

prem

(K.KANNAN)

JUDGE