

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

CR No.2438 of 2015 (O&M)

Date of decision :12.5.2015

Iqbal Singh

....Petitioner

versus

Lakhwinder Kaur and others

.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. C.M. Munjal, Advocate, for the petitioner.

Rajesh Bindal, J.

Challenge in the present petition is to the order dated 17.3.2015 passed by the learned court below, whereby the application filed by the petitioner/plaintiff under Order XXXIII Rule 1 CPC seeking exemption from deposit of ad valorem court fee being an indigent person was declined. Further prayer was made that the petitioner/plaintiff is ready to deposit the ad valorem court fee, which is 10 times the land revenue.

The petitioner in the present case is NRI living in England. The suit for declaration claiming that the petitioner/plaintiff is in possession of the suit land, was filed by him through his attorney. Cancellation of sale deed dated 15.9.2009 was also prayed for. The suit was filed on 13.5.2010. Vide order dated 9.9.2014, the learned trial court directed the petitioner to pay ad valorem court fee. The order was challenged before this Court, which was upheld vide order dated 29.11.2014 passed in CR No.7866 of 2014. Thereafter, the petitioner filed application under Order XXXIII Rule 1 CPC dated 26.2.2015 seeking exemption from deposit of court fee claiming himself to be an indigent person and further stating that he is ready to deposit court fee, which is 10 times the land revenue.

The mere fact that the petitioner is NRI, filing of an application seeking exemption from deposit of court fee on the ground that he is an indigent person, was totally frivolous. Similar is the prayer claiming that the court fee be charged @ 10 times the land revenue.

It is not in dispute that no such plea was raised by the petitioner, when he had earlier challenged the order passed by the learned court below directing deposit of ad valorem court fee, hence, such a plea could not possibly be permitted to be raised second time before the learned trial court. The petitioner was only to deposit the court fee as already directed. The suit filed more than five years back was still at the stage, when the petitioner is yet to be deposited the court fee. Even the issues have not been framed.

The petition being misconceived is dismissed. For unnecessary delaying the process of the court by filing frivolous application before the court below and the present petition before this Court, the petitioner is burdened with cost of ₹ 50,000/- to be deposited with the District Legal Services Authority, Mansa within a period of one month.

(Rajesh Bindal)
Judge

12.5.2015

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