IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No.2169 of 2014 (O&M)

Date of decision: 15.12.2015

Ajit Singh

... Petitioner

versus

Raj Kumar and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr.Amit Chaudhary, Advocate for the petitioner.

Mr. Vikas Kumar, Advocate for respondent No.1.

K.Kannan, J.(Oral)

The suit, which is dismissed in default after several opportunities given to the plaintiff, was sought to be restored by filing an application for allowing the benefit of trial for disposal on merits. Application filed under Order 9 Rule 9 CPC was dismissed and the Appellate Court also dismissed the same. The Court has recorded the fact that the plaintiff took several opportunities for production of evidence but the court fee which was directed, had not been paid in time and plaintiff's conduct to Courts below did not show any discretionary order in his favour.

The suit contains reference to a prayer for adjudication of

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rights in relation of immovable property and plaintiff is claiming that he has paid about Rs.45 lacs. There is a prayer for possession by way of specific performance. The counsel is unable to inform as to whether the plaintiff has paid the necessary Court fee of Rs.45 lacs. Having regard to the fact that suit involves adjudication of the rights to immovable property whose value is several lacs of rupees. I offer opportunity to the plaintiff to have suit restored, contest on merits, on the condition that the petitioner pays ₹25,000/- as costs to defendant within a period of four weeks. On such payment, order already passed would stand set aside and the suit will be restored for disposal in accordance with law. If the amount is not paid within the time stipulated the liberty given now shall stand withdrawn and the order passed already to the Court below will stand restored.

Before the trial commences, the Court shall ensure that the plaintiff pays appropriate court fee on the consideration stated in the plaint as Rs.45 lacs and if fee is not paid, the Court shall issue direction for payment of fee within the stipulated time with consequence of rejection of plaint in the manner contemplated under Order 7 Rule 11 (C) CPC.

The revision petition is allowed in the above terms.

(K.KANNAN)
JUDGE

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