

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

103

Civil Revision No.2389 of 2014

Date of Decision:13.10.2015

Kesar Singh

....petitioner

Versus

Gurmail Kaur

.....respondent

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

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

Present: Mr.Harsh Garg, Advocate
for the petitioner

Mr.Malkeet Singh, Advocate
for the respondent

ARUN PALLI, J.(ORAL):-

Vide order being assailed, dated 21.01.2014, rendered by Civil Judge (Jr.Divn.), Khanna, respondent-plaintiff had since been permitted to sue the petitioner as an indigent person. The conclusion recorded in this regard reads as thus:

"I have considered the rival contentions of the learned counsel for the parties and have gone through the file carefully. In his statement, the applicant stated that she does not possess any movable and immovable property except the articles mentioned in Annexure A to rebut this contention, the respondent examined RW1 Manjit Kaur and stated that applicant is having sufficient means to pay the court fee. She also placed on

record documents which is Ex.D1 and Ex.D2. Perusal of the above said documents it reveals that there is a some property in the name of the applicant but at the time of deciding the application for grant of permission for filing a suit for forma pauperis as indigent person, the court has to see that said person is not possessed sufficient means to enable him to pay the court fee prescribed by the law for the plaint, in such suit. It is well settled that possession of sufficient means does not possession of sufficient property. It is possible that one may be possessed of sufficient property but still may not be possessed sufficient means. The money is not only needed to pay the heavy court fee but also for the payment of getting legal assistance and meeting other sundry expenditure. Provision of Order 33 Rule 1 CPC has been enacted to enable the poor person to seek justice, filing suit without court fee. At this stage, I am of the considered view that although, applicant is having some immovable property but that is not sufficient to give the requisite court fee."

Ex facie, the order vide which the respondent was permitted to sue as an indigent person was not preceded by any inquiry as envisaged under Order 33 Rule 1(a) CPC.

Having argued the matter at some length, learned counsel for the parties are ad idem that the matter in issue needs reconsideration and, thus, the order dated 21.01.2014 be set aside and the matter be remitted to the trial Court for re-decision on merits.

That being so, the order dated 21.01.2014 (Annexure P1), rendered by the Civil Judge (Jr.Divn.), Khanna, is set aside. The

matter is remitted to the trial Court to re-consider the application moved by the respondent-plaintiff, seeking permission to sue as an indigent person, strictly in accordance with law, and, pass an order afresh. The petition is disposed of in the above terms. Needless to assert, this order shall not constitute any expression of opinion on merits of the claim of either party.

13.10.2015

*neenu***(ARUN PALLI)
JUDGE**