

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

CR No.5017 of 2014

Date of decision : 21.12.2015

Ritika and another

...Petitioners

Versus

Subhash Kumar and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. Siddharth Gupta, Advocate for petitioners.

Mr. Aman Bansal, Advocate for respondent Nos.1 to 6.

AMIT RAWAL, J. (Oral)

The petitioner-plaintiffs are aggrieved of the order dated 05.07.2014, whereby application under Order 33 Rule 5 CPC filed by the defendants has been allowed and application under Order 33 Rule 1 CPC seeking the intervention of the Court to allow the petitioner-plaintiffs to proceed with the suit as forma-pauperis, has been dismissed.

Mr. Siddharth Gupta, learned counsel appearing on behalf of petitioners submits, that Court below has erroneously been swayed away with the contents of the application filed under Order 33 Rule 5 CPC and did not ask for the report from the Collector while dismissing the

application filed under order 33 Rule 1 CPC summarily, therefore, impugned order is not sustainable.

Mr. Aman Bansal, learned counsel appearing on behalf of respondents-defendants submits, that respondents-plaintiffs have suppressed certain vital facts and did not approach the Court with clean hand as from perusal of mutation entry it is ex facie proved that petitioner was owner of the property. It is on this ground the application under Order 33 Rule 5 CPC, has been allowed.

I have heard learned counsel for parties and appraised the paper book.

The trial Court in my view entertained only application filed under Order 33 Rule 5 CPC but did not ponder on contents of application filed under Order 33 Rule 1 CPC, much less, argument, if any, addressed on it and for that purpose ought to have called upon the report of the Collector for the adjudication of the lis as respondent-plaintiff had already sought indulgence to proceed with the suit as forma-pauperis. Once the aforementioned statutory provision has not been complied with, I am of the view that impugned order is not sustainable and hereby set aside and the matter is remitted back to the trial Court to decide the applications aforementioned together afresh in accordance with law after completion of the statutory provision of law.

Revision petition stands allowed.

21.12.2015

pawan

**(AMIT RAWAL)
JUDGE**