

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

CR No.643 of 2014

Date of decision : 17.11.2015

Baldev Singh and another

...Petitioners

Versus

Gagan Dev Bharti

...Respondent

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. K.S. Sidhu, Sr. Advocate with
Mr. A.S. Sandhu, Advocate for the petitioners.

Mr. Namit Khurana, Advocate for the respondent.

AMIT RAWAL, J. (Oral)

Challenge in the present petition is to the order dated 20.09.2013, whereby application moved by the respondent-defendant-counter claimant for pursuing the counter claim in the capacity as indigent person, has been allowed.

Mr. K.S. Sidhu, learned Senior Counsel assisted by Mr. A.S. Sandhu, Advocate for the petitioners submits, that as per the report given by the Collector, the financial position of the respondent-defendant-Counter

Claimant has been found to be good. The trial Court has committed illegality and perversity in not noticing the report while allowing the application. As per the report, he owns residential property and had been indulging into selling and purchasing of the property and thus prays for setting aside of the order as it tantamounts to illegality and perversity.

Mr. Namit Khurana, learned counsel appearing on behalf of respondent-defendant-counter claimant submits, that during the previous year, the defendant had confined to jail on account of dishonouring of the cheque. Even the health condition of his wife is bad and lot of expenditure/money had been spent on her treatment. At the best, the trial may go on and in case he succeeds in counter claim, he will pay the court fees.

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

The petitioner-plaintiff has instituted the suit for recovery of ₹70,00,000/- and has paid the Courts fees. The respondent-counter claimant has also setup the counter claim claiming ₹12 lacs alongwith moved an application for pursuing the counter claim as indigent person. No doubt the report of the Collector reveals that the financial condition of the counter claimant is good but the fact remains that it is yet to be determined whether respondent-defendant would be able to succeed in his counter claim.

I am of the view that let the trial go on vis-a-vis the suit and the counter claim and in case respondent-defendant is able to prove the averments by leading direct and cogent evidence vis-a-vis his counter claim.

The trial Court shall call upon the defendants to pay the advolera courts

fees before rendering decision thereon.

With the aforementioned observations, impugned order is modified and accordingly revision petition stands disposed of.

17.11.2015

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**(AMIT RAWAL)
JUDGE**