

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

Civil Revision No.8257 of 2014 (O&M)

Date of decision: 10.03.2015

Surjit Kaur

... Petitioner

versus

Boota Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

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

Mr. D.K. Singla, Advocate,
for respondents 1 to 7, 9, 11, 12 and 14.

K.Kannan, J. (Oral)

CM No.4999-CII of 2015

Application is allowed, as prayed for. Amended memo
of parties is taken on record.

Civil Revision No.8257 of 2014

1. The suit for recovery of money claiming compensation for death of the plaintiff's husband contained an undertaking that as and when the amount is determined, she will pay the court fee, but she is not possessed of means to pay the court fee, although she owns 2 acres of land. The petition ought to have been presented as a petition under Order 33 Rule 1 CPC seeking for permission for exemption to pay the court fee on a statement made that she was not

in a position to pay the court fee. The impugned order has been passed in an application filed by the defendant for rejection of a plaint for not paying the ad valorem court fee. The court has directed the court fee to be paid.

2. I treat the plaint filed already in the interest of justice as the petition filed under Order 33 Rule 1 CPC and exempt the petitioner from payment of court fee. The consequences of a decree or dismissal after the trial will follow the burden of payment of court fee in the manner prescribed under the provision of Order 33 CPC. With these observations, the orders passed by the court below are modified and the civil revision is disposed of. The petitioner shall give an undertaking before the trial Court as regards her financial status and set forth that she has not sold any property within 2 months prior to the institution of the suit or that she has not concealed the existence of any property other than what was already disclosed, conditions that are necessary for maintaining a petition under Order 33 CPC. The affidavit before the trial Court shall be given in 2 months from the date of receipt of copy of this order. The benefit of this order shall be withdrawn if the affidavit is not filed as directed.

(K.KANNAN)
JUDGE

10.03.2015
sanjeev