

In the High Court of Punjab and Haryana at Chandigarh

CR No.8422 of 2014
Date of decision: 04.03.2015

Sheela Devi

.....Petitioner

Versus

Dakshin Haryana Bijli Vitran Nigam Limited and others
.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Sanchit Punia,Advocate
for the petitioner.

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SABINA, J

Petitioner has filed this petition challenging the order dated 11.9.2014 (Annexure P1), whereby, application moved by the petitioner under Order 9 Rule 4 of the Code of Civil Procedure, 1908 ('CPC' for short), was dismissed.

Learned counsel for the petitioner has submitted that the petitioner was 75% disabled and she had been advised by her counsel that there was no necessity for her to appear in the Court on each and every date. Petitioner had not authorized her counsel to withdraw the case.

Petitioner had filed suit for damages on account of injury caused to her due to electrocution and negligent act and omission of the defendants. During the pendency of the suit, counsel for the petitioner made the statement on 23.4.2010 that the petitioner had

been unable to make arrangement to affix the Court fee and he did not want to continue with the suit and it may be dismissed as withdrawn. On the basis of the statement of the counsel for the petitioner, the following order was passed by the trial Court on 23.4.2010:-

“Learned counsel for plaintiff has made statement to withdraw the instant suit. Keeping in view the statement so got recorded by Ld. Counsel for plaintiff instant suit is hereby dismissed as withdrawn. File after due compliance be consigned to record room.”

Thereafter, the petitioner moved an application under Order 9 Rule 4 CPC for setting aside the order dated 23.4.2010 and for restoration of the suit. The said application was dismissed by the trial Court vide impugned order dated 11.9.2014. Hence, the present petition.

The suit filed by the petitioner was got dismissed as withdrawn as the petitioner had been unable to affix the Court fee. The application was moved by the petitioner on 25.7.2013 i.e. after more than three years. The plea taken by the petitioner that she had been advised by her counsel that there was no need for her to appear on each and every date before the trial Court appears to be an after thought as petitioner was required to affix the necessary Court fee. The suit was got dismissed as withdrawn by the counsel for the petitioner as petitioner had failed to make arrangement for affixing the Court fee,

In the facts and circumstances of the present case,

learned trial Court had rightly dismissed the application moved by the petitioner under Order 9 Rule 4 CPC. No ground for interference is made out.

Dismissed.

**(SABINA)
JUDGE**

March 04, 2014
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