

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

**RA-CR-59-CII-2015 (O&M) in
CM-1031-CII-2015 in/and
CR-616-2014 (O&M)
Decided on : 15.09.2015**

Gurmeet Singh and others

... Petitioners

Versus

Ellora Hitech Infra Venture Pvt. Limited

... Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Puneet Bali, Senior Advocate with
Mr. Hittan Nehra, Advocate
for the applicant-respondent.

Mr. Ashish Aggarwal, Senior Advocate with
Mr. Govind Chauhan and Mr. Vivek Suri,
Advocates for the non-applicant/petitioner.

G.S. Sandhawalia , J. (Oral)

The petitioner who is a defendant in the suit for specific performance had filed the revision petition against the order dated 20.11.2013 passed by the Additional District Judge, Panchkula, whereby in an appeal filed by the respondent-plaintiff against the order dated 29.09.2012 which had rejected the plaint, the Appellate Court had held that there was no requirement to furnish *ad valorem* Court fees.

Vide order dated 19.02.2015 passed by this Court, the interim order earlier passed had been modified and the plaintiff-appellant had been given liberty to affix the Court fees before the

lower Appellate Court which was to decide the appeal. The aspect of payment of Court fees, however, was to be subject matter of the present revision petition. Thereafter, various interim orders were passed, whereby the plaintiff-respondent was not allowed to enter into any further arrangement with any third party and even the petitioner was not allowed to alienate the property till further orders.

It is now submitted that vide order dated 28.08.2015, the lower Appellate Court has allowed the appeal of the plaintiff-respondent and set aside the order dated 29.09.2012, whereby the plaint had been rejected. The case has been sent back to the trial Court to re-decide the application under Order 7 Rule 11 CPC afresh.

In such circumstances, the counsels are *ad idem* that the present revision petition has been rendered infructuous and pray that the same may be disposed of as having been rendered infructuous. Ordered accordingly.

However, it is clarified that in view of Section 13 of the Court Fees Act, 1870, the respondent-plaintiff will be at liberty to file an appropriate application for refund of the Court fees which has already been paid before the lower Appellate Court. It is open to the parties to file an appropriate application for the necessary relief before the appropriate forum.

On the filing of the application within two weeks from today, the said Court shall decide the same within a period of two months.

All interim orders passed by this Court are hereby vacated and all other applications are disposed of as having been rendered infructuous, with liberty to the parties to seek necessary relief before the trial Court.

SEPTEMBER 15, 2015
Naveen

(G.S. SANDHAWALIA)
JUDGE