

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 3330 of 2014 (O&M)

Date of Decision: 11.02.2016

Dr. Rajesh

... Petitioner(s)

Versus

Bharat Lal Bhargava

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

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

Present: Mr. Arpandeep Narula, Advocate
for the petitioner(s).

Mr. Gopal Sharma, Advocate
for the respondent(s).

Shekher Dhawan, J.

Present petition is for setting aside the judgment & decree dated 26.3.2013, passed by learned Civil Judge (Junior Division), Rewari and judgment & decree dated 28.1.2014, passed by learned Additional District Judge, Rewari, whereby suit for recovery, filed by the respondent/plaintiff, was decreed and first appeal having been filed by the present petitioner was dismissed.

Relevant facts of the case that respondent/plaintiff had filed

suit for recovery of ₹ 18,897/- and the Court of learned Civil Judge (Junior Division), Rewari decreed the said suit. Present petitioner filed first appeal against the said judgment & decree and the same was dismissed by the Court below on 28.1.2014. Learned counsel for the petitioner submitted that the said findings of both the Courts below are erroneous and are liable to be set aside.

Learned counsel for the respondent raised objection that as per Section 102 CPC, present petition, being second appeal in a suit for recovery of an amount not exceeding ₹ 25,000/-, is not maintainable. While arguing on this point, learned counsel for the petitioner submitted that present case is a petition under Article 227 of the Constitution of India and not the second appeal and the same is not maintainable. In support of his arguments, learned counsel for the petitioner placed reliance upon the view taken by co-ordinate Bench of this Court in case ***Om Parkash v. Sardha Ram (Civil Revision No. 2793 of 2012, decided on 31.8.2012)***. On the same point, reliance was placed upon the judgment from Madras High Court in case ***K.Chockalingam v. K.R. Ramasamy Iyer and Jenbagam 2004(4) LW 586 (Madras)***.

This Court has considered the submissions made by learned counsel for the parties and also gone through the view taken by the co-ordinate Bench of this Court in ***Om Parkash's case (supra)*** and also by the Madras High Court in ***K.Chockalingam's case (supra)*** and of the view that as per amended provisions of Section 102 CPC, there is a complete bar for second appeal in a suit for recovery of amount involving less than ₹ 25,000/-. Merely filing of revision petition in lieu of

filing second appeal does not make out a case for maintainability of the matter before this Court. The very object of incorporating such an amendment in the Code of Civil Procedure is to bring an end to litigation involving petty matter and there being no dispute that the matter in controversy is based on a suit for recovery of money not exceeding ₹ 25,000/- and legislature has already enacted the provisions while being conscious that there should be no second appeal in such like suits for recovery of money not exceeding ₹ 25,000/-. Filing of petition under Article 227 of the Constitution is just to frustrate the very object of such a legislation which is not permissible.

In view of above, present petition is dismissed being not maintainable.

(Shekher Dhawan)
Judge

February 11, 2016

"DK"