

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 3618 of 2016

Date of Decision: 23.05.2016

Gurjant Singh and Others

... Petitioner(s)

Versus

Veerpal Kaur and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

- | | | |
|----|---|------------|
| 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. K.S.Brar, Advocate
for the appellant(s).

Shekher Dhawan, J.

Present petition under Article 227 of the Constitution of India for setting aside order dated 27.11.2015, passed by learned Civil Judge (Senior Division), Bathinda, whereby application, filed by plaintiff to file the suit *in forma pauperis* as indigent person, was allowed.

As per applicant/plaintiff, she was not having any independent source of income nor any movable or immovable property. Rather she is residing in her parental house and dependent upon her parents for day-to-day expenses. The value of the articles owned and possessed by her is not more than ₹ 1,000/- and the suit for recovery of maintenance is to the tune of ₹

applicant is unable to make the said payment and sought permission to file the suit *in forma pauperis* as indigent person.

Petitioner contested the application on the ground that the contention of the applicant is incorrect. In fact, applicant has deposits of ₹ 22,500/- vide registration Nos. UO18212556 & UO18078660 and ₹ 72,735 with PACL India Limited, which have been deposited by her as price of the different sizes of plots and the said FDR along with interest thereon is refundable to her and applicant is in a position to make the payment of court fee.

On these facts, the Court below settled the issues and parties were asked to lead their respective evidence. After appreciating the oral and documentary evidence, the Court below recorded the findings that by taking all means at the command of the applicant, she is not in a position to affix the required court fee and permission to sue as indigent person was granted to her.

Learned counsel for the petitioner submitted that the Court below has not considered the matter correctly that respondent/plaintiff is having sufficient means and she used to invest the amount in one company or the other. The respondent has concealed these facts. Joginder Singh (RW.1) made statement on the basis of record that respondent/applicant had moved an application for registration of plot measuring 1000 square yards for ₹ 72,735/- and for registration of plot measuring 450 square yards for ₹ 32,000/-, which is Ex.R2 and she is paying the instalments regularly.

Having considered the submissions made by learned counsel for the petitioner and gone through the impugned order, this Court is of the

considered view that the Court below has already scanned the entire oral and documentary evidence. The Court below has also examined the statements of accounts (Ex.P3 & Ex.P4) and even on that basis, the respondent is not in a position to make payment of ₹ 1,16,850/- as court fee and permission was rightly granted to sue her as indigent person.

In view of above, present petition is without any merit and the same stands dismissed, in *limine*. However, it is made clear that if during trial of the case, on the basis of the evidence and material available on the file, the Court comes to the conclusion that plaintiff is entitled to relief claimed in the suit by way of maintenance, payment of court fee shall be the first charge.

(Shekher Dhawan)
Judge

May 23, 2016
“DK”