

Civil Revision No.4132 of 2015

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No.4132 of 2015

Date of Decision: 9.12.2016

Biram Singh

---Petitioner

versus

State of Haryana through its Collector Panipat and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. S.S.Kharb, Advocate
for the petitioner**

Mr.Kapil Bansal, DAG, Haryana

Rekha Mittal, J.

The present petition directs challenge against order dated 17.3.2015 (Annexure P-6) passed by the Additional District Judge, Panipat whereby application filed by the petitioner for permission to file the appeal as an indigent person, has been dismissed.

Counsel for the petitioner would submit that the petitioner filed

the suit against State of Haryana and others that came to be dismissed by the trial court vide judgment and decree dated 31.5.2014. The petitioner preferred an appeal before the Court of District Judge. Alongwith the appeal, an application was filed seeking permission to pursue the appeal as an indigent person. The Appellate court (Additional District Judge, Panipat) sought a report of the Collector and report dated 11.3.2015 was submitted by the patwari as well as Tehsildar Bapoli recording that as per jamabandi for the year 2000-01, Biram Singh does not have any agricultural land and he is doing labour job with *jhota buggi*.

On a pointed query raised by the Court, counsel for the petitioner has submitted that reference to jamabandi for the year 2000-01 has been made as subsequent thereto, no jamabandi has been prepared in the area concerned.

Counsel for the respondents has stated nothing that besides the report submitted by the Tehsildar, any other report was received from the Collector with regard to assets/land/property of the petitioner.

The Court below has negated plea of the petitioner by saying that the petitioner has sufficient means to pay the court fee when the report submitted by the Tehsildar speaks otherwise. It appears that the Court

neither bothered to examine the provisions of order XXXIII and XLIV of the Code of Civil Procedure nor appreciated the report in right perspective. In view of the above, the order impugned cannot be allowed to sustain and accordingly set aside.

For the foregoing reasons, the petition is allowed, the impugned order is set aside and the matter is remitted to the Court of appeal for decision afresh, with regard to entitlement of the petitioner to pursue his appeal as an indigent person, by passing a speaking order.

(Rekha Mittal)
Judge

9.12.2016

PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No