

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.4331 of 2016
Date of Decision.13.07.2016

Ashok Kumar

.....Petitioner

Vs.

Mahinder Singh

.....Respondent

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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AMIT RAWAL J. (ORAL)

The petitioner-defendant is aggrieved of the impugned order whereby the respondent-plaintiff has been allowed to pursue the suit being pauper.

Mr. Sanjiv Gupta, learned counsel appearing for the petitioner contends that the respondent-plaintiff has 3 marlas of land in the heart of the city and the Court below has wrongly relied upon the report of the SDO. The claim in the suit is for possession of the property and therefore, court fee was required to be deposited. The application under Order 33 Rule 1 CPC was filed only on receipt of the application under Order 7 Rule 11 CPC, which could not have been entertained by the trial Court on going through the simple and plain language of Order 33 Rule 1 CPC and explanation given therein.

I have heard the counsel for the petitioner, appraised the paper book and of the view that the Court has taken into consideration the report

of the SDO (Civil), being independent one. The said report reveals that the plaintiff has no source of income and under these circumstances, the application was moved. The provisions of Order 33 CPC does not show that the application is required to be instituted along with the suit itself and cannot be entertained at a subsequent stage. Since the court fee of ₹25/-, on determining the value at ₹200/-, was fixed. Moreover, the order under challenge is based upon the report of the SDO which has not so far been controverted.

In the wake of above observations, I do not find any reason to differ with the impugned order passed by the Court below and the order cannot be said to be passed without jurisdiction. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

July 13, 2016
Pankaj*