

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

**C.R. No.6618 of 2016**

**Date of Decision.03.10.2016**

Raj Bala

.....Petitioner

Vs.

Harish Chander and others

.....Respondents

Present: Mr. Sandeep Singal, 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 counsel for the petitioner contends that earlier an application under Order 7 Rule 11 CPC was filed for seeking dismissal of the plaint on account of deficiency of court fee but the same was dismissed. The order was assailed before this Court in revision petition and this Court allowed the revision petition to be dismissed as withdrawn with liberty to take the plea of court fee during the pendency of the trial.

Mr. Sandeep Singal, learned counsel appearing for the petitioner submits that written statement had been filed and preliminary objection No.6 has been taken but the Court below has not framed the issue. Though the suit is at the stage of plaintiff's evidence, I am of the view that once this Court had granted the permission vide order dated 14.12.2015, the Court should have framed the issue otherwise the party will not be able to lead evidence as the case is at the initial stage. The order passed by this Court on 14.12.2015 reads thus:-

*“Learned counsel for the petitioner after arguing some time, seeks to withdraw this petition to enable him to take up all pleas to deficit court fee during the pendency of the trial. Dismissed as withdrawn.”*

The opposite party will be given chance to rebut the same while leading evidence. The revision petition is disposed of directing the trial Court to frame issue of court fee as per preliminary objection No.6 taken in the written statement.

I am disposing of the revision petition dispensing with notice to the respondent in order to defray of the cost of litigation and to avoid the delay of the trial, in view of the order dated 14.12.2015. When the parties are at variance, it is duty of the Court below to frame issues and should not be influenced with the previous order which had merged into the order of this Court extracted supra.

The impugned order is set aside. The revision petition is disposed of with the above observations.

**(AMIT RAWAL)**  
**JUDGE**

**October 03, 2016**

Pankaj\*

Whether reasoned/speaking      Yes

Whether reportable      No