

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

CR No.1617 of 2017

Date of decision: March 06, 2017

Hari Chand and others

...Petitioners

Versus

Surender Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Chandan Dhingra, Advocate
for the petitioners.

JASPAL SINGH, J.(ORAL)

By virtue of the instant petition preferred under Article 227 of Constitution of India, petitioners have sought setting aside the order dated 24.01.2017 (Annexure P-4) passed by Additional District Judge, Hisar whereby an application moved under Order XXXIII, Rules 2 and 3 of Code of Civil Procedure seeking permission to sue as indigent person, has been dismissed.

A perusal of the impugned order transpires that application has been dismissed only on the ground that it is not supported by an affidavit and further that the required list of properties along with affidavit with regard to their values and price have not been filed. However, at the same time, no report from the Office of Collector/Competent Authority was sought by the Appellate Court. It is obligatory that on receipt of an application under Order XXXIII, Rules 2 and 3 seeking permission to sue an appeal, the affidavit and list of properties also required to be given. Yet, calling report from the Collector with regard to property of the applicant(s) is also necessary.

Without commenting upon the illegality of Order dated 24th January, 2017, it is *set aside* and the petitioners are directed to file a fresh application under Order XXXIII, Rules 2 and 3 accompanied by the requisite affidavit as well as list of properties in the shape of an affidavit before the trial Court, which shall be dealt with and dispose of by it, in accordance with law.

A copy of this order be sent to the concerned Court for compliance.

Disposed of.

March 06, 2017

m. sharma

(JASPAL SINGH)

JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No