

CR No.1953 of 2017 (O&M)

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA
AT CHANDIGARH**

**CR No.1953 of 2017 (O&M)
Date of decision: 18.3.2017**

Amarjit Singh

...Petitioner

Versus

Rakesh Kumar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Atul Goyal, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (Oral)

Present revision petition, at the hands of defendant, is directed against the impugned order dated 17.11.2016 passed by the learned trial court, whereby application of the petitioner-defendant under Section 35B read with Section 151 of the Code of Civil Procedure ('CPC' for short), was dismissed.

Learned counsel for the petitioner, while placing reliance on a judgment of this Court in Dinesh Singla Vs. Smt. Surekha Singla and another, 2002 (4) RCR (civil) 513, contended that once plaintiff had not paid costs of ₹500 imposed on him, vide order dated 19.9.2014 (Annexure P-2), his plaint was bound to be dismissed by the learned trial court. He further submits that it was obligatory on the part of the learned trial court to ensure

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strict compliance of the order dated 19.9.2014. He concluded by submitting that once the cost imposed was not deposited, plaintiff was not entitled to lead his remaining evidence and his evidence ought to have been struck off. He prays for allowing the present revision petition, by setting aside the impugned order.

Having heard the learned counsel for the petitioner at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that instant revision petition is without any merit and the impugned order deserves to be upheld. To say so, reasons are more than one, which are being recorded hereinafter.

So far as the judgment relied upon by learned counsel for the petitioner is concerned, there is no dispute about the observations made therein. However, on a close perusal of the cited judgment, it has not been found to be of any help to the petitioner, being distinguishable on facts. It is the settled principle of law that peculiar facts of each case are to be examined, considered and appreciated first, before applying any codified or judgemade law thereto. Sometimes, difference of even one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in **Padmausundara Rao and another Vs. State of Tamil Nadu and others, 2002 (3) SCC 533, Union of India Vs. Amrit Lal Manchanda and others, 2004 (3) SCC 75, State of Orissa Vs. Md. Illiyas, 2006 (1) SCC 275 and State of Rajasthan VS. Ganeshi Lal, 2008 (2) SCC 533.**

A bare perusal of the impugned order would show that once it was brought to the notice to the learned trial court that plaintiff has not paid

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the cost of ₹5,00/- imposed on him vide abovesaid order dated 19.9.2014, learned trial court directed the plaintiff to deposit the abovesaid costs, vide the impugned order. Having said that, this Court feels no hesitation to conclude that the learned trial court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

It is also the settled proposition of law that rules of procedures are meant for advancing the cause of justice. Every court of law must make an endeavour to decide the litigation between the parties on its merits and not on technicalities alone. Every party to the litigation must be granted reasonable opportunity to put up its best case. Nobody should be forced to go home with the grievance that sufficient number of opportunities were not granted. While proceeding on the abovesaid settled principle of law, learned courts would achieve twin objects; i) it would avoid multiplicity of the litigation and ii), do complete and substantial justice between the parties to the litigation. That is what has been done by the learned trial court, while passing the impugned order. In this view of the matter, no fault can be found with the impugned order and the same deserves to be upheld, for this reason also.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India. In this view of the matter, it can be safely concluded that learned court below committed no error of law, while passing the impugned order and the same deserves to be upheld, for this reason also.

No other argument was raised.

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Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present revision petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant revision petition stands dismissed, however, with no order as to costs.

18.3.2017
AK Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No