

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.4687 of 2017
Date of Decision: 30.08.2017

Ravinder Singh @ Bittu
Vs
Ram Chand and others

.....Petitioner
.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Diwan S. Adlakha, Advocate
for the petitioner.

Mr. Manjeet Singh, Advocate
for respondents No.1 and 2.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has assailed the order dated 09.05.2017 passed by Additional District Judge, Yamuna Nagar at Jagadhri, vide which memorandum of appeal filed by the petitioner before the Lower Appellate Court was rejected for want of court fee.

[2]. Notice of motion was issued on 20.07.2017 on the basis of readiness and willingness of the petitioner to affix the *ad valorem* court fee on the memorandum of appeal filed before the Lower Appellate Court. Following order was passed on 20.07.2017:-

“Learned counsel for the petitioner submits that appeals filed by co-defendants are pending before the lower Appellate Court against the judgment and

decree dated 07.03.2017. Petitioner could not affix the requisite Court fee on account of death of his father on 02.05.2017. Now, the petitioner is ready to affix ad valorem Court fee, provided one opportunity is granted to the petitioner.

Notice of motion for 30.08.2017.”

[3]. Learned counsel for the petitioner stated that court fee to the tune of Rs.1,83,800/- is required to be affixed on the memorandum of appeal before the Lower Appellate Court.

[4]. A suit for specific performance filed by the plaintiff/respondent was decreed by the trial Court. An appeal against the judgment and decree dated 07.03.2017 was filed before the lower Appellate Court. The requisite court fee could not be affixed on the memorandum of appeal due to death of father of the petitioner on 02.05.2017.

[5]. Learned counsel for respondents No.1 and 2 opposed the prayer of the petitioner on the ground that in case affixation of court fee is allowed at this juncture, the appeal would become time barred.

[6]. Having considered the issue in question, I find that since the appeal has already been filed without affixing the requisite court fee, therefore at the most affixation of court fee would enable the Lower Appellate Court to decide the appeal on

merits. Technicalities should not come in the way of imparting justice.

[7]. In view of attending circumstances of the case, I deem it appropriate to grant two weeks time to the petitioner to affix the requisite court fee on the memorandum of appeal before the Lower Appellate Court. In the event of affixing such a court fee, the Lower Appellate Court would be obligated to decide the appeal on merits. The delay, if any, in affixing the court fee, is required to be condoned.

[8]. Ordered accordingly.

August 30, 2017.

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No