

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

**CR No.5131 of 2017 (O&M)
Date of decision: 04.08.2017**

M/s Green Estate & HRE Plot Holders Association Regd.

... Petitioner

Vs.

M/s C. Infrastructure Corporation Limited

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Adarsh Jain, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the order dated 22.12.2016 passed by the learned trial Court, whereby plaint was rejected for non-compliance of the Court order dated 27.10.2016, while not affixing the Court fee, as directed by the Court, even within the extended time granted by the Court, plaintiff has approached this Court by way of instant civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Heard learned counsel for the petitioner.

A bare reading of the order dated 27.10.2016 passed by the learned trial Court (Annexure P-12), at page 73 of the paper book, would show that instead of advancing his ex-parte arguments, plaintiff moved an application seeking time from the learned trial Court to make the deficiency of Court fee good. On said application having been moved on behalf of the

plaintiff-petitioner, the learned trial Court passed the following order on 27.10.2016: -

“M/s Green Estate Vs. M/s C. Infrastructure Co. Ltd.

Present: Sh. Pardeep Sharma, Advocate for plaintiff.

Defendant ex-parte v.o.d. 14.08.2015.

Exparte arguments not advanced rather an application to grant time to make good deficient court fee is file. As defendants are proceeded exparte, hence, no notice of the same is required.

Heard. Keeping in view the contents mentioned in the application, the application in hand is allowed. The plaintiff/applicant is directed to affix the ad valorem court fee within 30 days. Now, to come up on 30.11.2016 for exparte arguments.

*Sd/-
Jitender Kumar
CJJD/FBD/27.10.2016.”*

The abovesaid order passed by the learned trial Court was not complied with by the petitioner-plaintiff. He moved yet another application seeking extension of time, so as to enable him to make the deficiency of Court fee good. That second application moved on behalf of the plaintiff was again allowed by the learned trial Court, granting further extension in time to the plaintiff to make the deficiency of Court fee good. This order was passed by the learned trial Court on 30.11.2016 and the same reads as under: -

“Present: Sh. Pardeep Sharma, Advocate for plaintiff.

Defendant ex-parte v.o.d. 14.08.2015.

Ad-valorem court fee not affixed. At this stage an application for extension of time to make deficiency in court fee good filed. As the defendant is already proceeded against exparte, hence, keeping in view the grounds mentioned in the application and demonetization policy of the Government, the application in hand is allowed. Now, the case is adjourned to 22.12.2016 for affixing ad-valorem court fee, subject to the last opportunity.

*Sd/-
Jitender Kumar
CJJD/FBD/30.11.2016.”*

In spite of repeated orders having been passed by the learned trial Court giving more than one sufficient opportunities to the petitioner-plaintiff to make the deficiency of Court fee good, plaintiff was not in a mood to comply with the abovesaid orders passed by the learned trial Court. After passing of the abovesaid orders, when the case came up for hearing before the learned trial Court on 22.12.2016 and the plaintiff did not make the deficiency of Court fee good, the learned trial Court was left with no other option except to pass the impugned order and relevant part thereof reads as under: -

“Heard. Record perused. Initially the applicant/plaintiff was granted one month time to affix the court fee on 27.10.2016 but plaintiff fails to affix the ad valorem court fee within the given period. However, an application was moved on behalf of applicant/plaintiff for extension of time on 30.11.2016. This Court after considering the contents of the application and keeping in view the demonetization policy of the Government

extended the time up to 22.12.2016 for affixing the ad valorem court fee subject to last opportunity. But today also the applicant/plaintiff, in spite of last opportunity failed to affix the ad valorem court fee and moved the application in hand for extending the time for the purpose for six months.

As per Section 148 and 149 of CPC, the court has power to extend the time for 30 days. The Court has already granted approximately two months time to the applicant/plaintiff to make good the deficient fee. Even, the application in hand is filed for extending the time for another six months, which is not permissible in law. Otherwise also the present suit was filed on 11.04.2009 i.e. more than seven and half year back and the plaintiff has failed to make good the court fee during the whole of the period. This case is being proceeded exparte since 14.08.2015 and being dragged in through out the period on one pretext or other.

Further as per the provisions contained under Order 7 Rule 11(c) of CPC the plaintiff is liable to affix the court fee within the period fixed by the court. In the case in hand, court affixed the period for affixing the Court fee as 30.11.2016 and same was also extended for today on the application of applicant/plaintiff. As today was the last opportunity and applicant/plaintiff failed to affix the Court fee as ordered by this Court within the period fixed, hence, the plaint of the applicant/plaintiff is rejected under Order 7 Rule 11 (c) of CPC.

Application in hand is dismissed being devoid of merit. The file be consigned to record room after due compliance.”

The argument raised by learned counsel for the petitioner that petitioner-plaintiff was not liable to pay the ad-valorem Court fee, has been duly considered but found wholly misconceived, for the reason that plaintiff-petitioner himself moved the repeated applications before the learned trial Court seeking permission to make the deficiency of Court fee good. Once such repeated requests made on behalf of the petitioner-plaintiff are recorded in the abovesaid orders and forms part of the judicial record, this argument is not even available to the petitioner. It seems that the petitioner was proceeding on a very casual approach, glaringly misusing the process of law, while taking the Court for a ride. In this view of the matter, petitioner has not been found to be a bonafide litigant. Such a litigant has no place before the Court of law. The litigant, who has no respect for the law and the justice delivery system, is not entitled for any kind of sympathy or relief at the hands of Courts. Instant one is also such a glaring example. 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.

During the course of hearing, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned order passed by the learned trial Court, which may warrant interference at the hands of this Court, while exercising its revisional jurisdiction under Article 227 of the Constitution of India.

No other argument was raised.

Considering the peculiar facts and circumstances of the case

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

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

[RAMESHWAR SINGH MALIK]
JUDGE

04.08.2017
vishnu

Whether speaking/reasoned Yes/No

Whether reportable Yes/No