

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

CR No. 6661 of 2016

Date of Decision: 12.09.2017

HAKAM SINGH

-PETITIONER

VS

PARKASH SINGH

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Joginder Sharma, Advocate,
for the petitioner.

None for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

On 04.10.2016, following order was passed by this

Court:-

“Learned counsel for the petitioner contends that in a suit for recovery of Rs.1,54,000/- on the basis of pronote and receipt dated 01.02.2013, total court fee payable was Rs.7240/- and there was deficiency of Rs.40/- only. Trial Court rejected the plaint under Order 7 Rule 11 CPC. Learned counsel further contends that opportunity should have been granted to the petitioner to make good the deficiency of

Rs.40/- as the order impugned herein was passed ex parte.

Notice of motion for 08.11.2016.”

As per office report dated 05.11.2016, respondent was duly served with the process.

Petitioner has assailed the order dated 27.01.2016 passed by Additional Civil Judge (Senior Division), Nihal Singh Wala vide which the plaint was rejected in terms of Order 7 Rule 11 CPC in the absence of the plaintiff. The absence of the plaintiff may be on different parameters, but the deficiency to the tune of Rs.40/- was pointed out, for that a notice was required to be issued to the plaintiff for making good the deficiency of court fee before rejecting the plaint under Order 7 Rule 11 CPC.

A suit for recovery of Rs.1,54,000/- was filed on the basis of pronote and receipt dated 01.02.2013 and the total court fee payable was assessed to be Rs.7240/-. Infact, there was a deficiency to the tune of Rs.40/- for which an opportunity was required to be given to the petitioner for making good the same in the event of finding such a deficiency by the Court.

It appears that the impugned order has been passed in the absence of the plaintiff. The plaintiff-petitioner has pleaded that the non-appearance of the plaintiff was on account of wrong noting of the date by the counsel as 28.01.2016

instead of 27.01.2016.

Be that as it may, the impugned order lacks legal requirement and is therefore, set aside.

Necessary consequences to follow.

12.09.2017
jyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No