

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CR No.6301 of 2017
Date of decision: 15.11.2017

Jaswant

..... Petitioner

Versus

Sandeep and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Ajay Kumar Kansal, Advocate
for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Judgment-debtor is in revision petition against the order dated 25.07.2017. The Court passed a decree in favour of the plaintiff subject to filing of the ad-valorem Court fee as per value of the property within 15 days of the pronouncement of the judgment. It was further provided that in case of failure to file ad-valorem fee within the stipulated period, the suit of the plaintiff shall be deemed to have been dismissed.

It is not in dispute that the plaintiff had affixed the Court fee i.e. Rs.3,710/-. Judgment-debtor pointed out that there is a deficiency in the payment of the Court fee. Plaintiff made up the deficiency by affixing the remaining Court fee.

Judgment-debtor has also filed an application for dismissal of the suit on the ground that since proper Court fee was not affixed, therefore, as per the condition laid down in the decree, the suit would deemed to have been dismissed.

Learned trial Court after appreciating the argument of both the sides has held that there was a bona fide error and the deficiency in Court fee has already been made good.

This order has been challenged by the defendant/judgment-debtor in this Court. Learned counsel for the petitioner has relied upon the judgments passed by the Court rendered in Mahender Ram Vs. Sardul Singh, 2015 LawSuit (P&H) 4733 and Sukhjit Singh Vs. Krishana Kumari and others, 2013 LawSuit (P&H) 5014. He submits that the Court has no power to extend the time as the time is not fixed by the Code.

I am afraid both the judgments are not applicable. In both the judgments, the balance sale consideration pursuant to the decree for specific performance of agreement to sell was required to be deposited. This is not a case here. It is a case where decree was passed subject to the payment of Court fee. Plaintiff did deposit the Court fee, however, the same was deficient.

Taking into consideration the fact that the Court always has power to extend the time under Section 148 of the Code of Civil Procedure, this Court does not find any good ground to interfere with the impugned order passed by the trial Court.

Revision petition is dismissed.

15.11.2017
Dinesh Bansal

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned Yes / No

Whether Reportable Yes / No