

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Civil Revision No.7764 of 2016
Date of decision: February 15, 2017

Surjit Singh and another ...Petitioners

Versus

Nirmala Devi ...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Lakhwinder Singh Mann, Advocate for the petitioners.

Rajan Gupta, J.(oral)

Petitioner is aggrieved by the order dated 13.10.2016, passed by the court below, whereby application under Order 32 Rules 2 and 15 CPC has been dismissed.

It has been urged before the court that plaintiff Nirmala Devi is of unsound mind, thus, she was unable to appoint any attorney on her behalf and for this reason, plaint is liable to be rejected. Learned counsel relies upon the judgment rendered in *Kasturi Bai & others vs. Anguri Chaudhary, 2003 (1) R.C.R. (Civil) 765*.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It appears, plaintiff/respondent filed a suit under Specific Relief Act, 1963 against the defendant/petitioners for grant of permanent injunction restraining defendants, their agents etc. from claiming themselves to be the landlords of property measuring about 6 Marlas comprising of five

shops etc., as detailed in the plaint. During pendency of suit, instant application was filed for rejection of plaint and imposing costs upon the attorney, without filing any affidavit in support of same. The trial court rejected the prayer. I find no infirmity with the order. It reveals that plaintiff has filed suit through her special power of attorney Yadwinder Singh Parmar for the reason that she was not keeping good health and unable to walk. She has not presented herself to be of unsound mind. No enquiry needs to be conducted regarding unsoundness of her mind, thus, the court below has rightly rejected the prayer. The judgment in *Kasturi Bai's case* (supra) is not applicable to the facts of the instant case as plaintiff in that case was 87 years of age and was not capable to give any instructions to her lawyer. Present revision petition is, thus, without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

February 15, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No