

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

CR No.8325 of 2017

Date of decision: 15.12.2017

Sarmukh Singh

..... Appellant

Versus

Samma Singh and others

..... Respondents

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. V.K. Kaushal, Advocate for the petitioner.
Mr. Premjit Kalia, Advocate for respondents No.1 to 4.

B.S. WALIA, J. (ORAL)

[1] Learned counsel for the respondent-plaintiff has produced copy of order dated 17.11.2017, passed by the learned ACJ (SD), Ajnala, whereby cost imposed while allowing the application for amendment of plaint vide order dated 30.10.2017 i.e. Annexure P-1 have been paid. Order dated 17.11.2017 is taken on record and copy thereof supplied to learned counsel for the defendant-petitioner.

[2] In view of the decision in *2010(63) RCR (Civil) 639* in case titled 'Sandeep and others versus Surender and others', if cost amount is accepted, the party accepting the cost amount is debarred from challenging the order. Relevant extract of the aforementioned decision is reproduced as under:-

“4. At the outset, learned counsel for the contesting respondents contended that the plaintiffs have accepted the cost amount of Rs.2,000/- pursuant to impugned judgment dated 07.03.2009 without any protest, and therefore, the petitioners are debarred from challenging

*the impugned judgment. There is considerable merit in the contention. Learned counsel for the respondents, in support of the aforesaid contention, has placed reliance on a judgment of Hon'ble Supreme Court in the case of Krishan Kumar Khanna v. International Society for Krishna Consciousness reported as Vol. CXXVII-(2001-1) P.L.R. 704 and on various judgments of Single Benches of this Court namely Sushil Kumar v. The Panchayat Samiti, Kaithal reported as 1989 P.L.J. 451, an unreported judgment dated 15.07.2008 passed in Civil Revision No.4286 of 2007 and also a judgment of Division bench of this Court in the case of Amar Singh v. Perhlad and others reported as 1989 P.L.J. 496. **The ratio of all these judgments is that if cost amount is accepted, the party accepting the cost amount is debarred from challenging the order. Even if cost amount is accepted under protest, even then the order cannot be challenged by the party accepting the cost. In the instant case, the cost amount was accepted unconditionally and therefore, the petitioners are debarred from challenging the impugned judgment of the Appellate Court.***

[3] A perusal of order dated 17.11.2017 reveals that the costs were paid, amended plaint filed and case adjourned to 08.12.2017 for filing of written statement to the amended plaint. In view of the decision in 'Sandeep and others versus Surender and others' (supra), the revision petition no longer survives and is accordingly dismissed.

(B.S. WALIA)
JUDGE

15.12.2017
amit

Note:

1. Whether the order is speaking/reasoned : Yes/No.
2. Whether the order is reportable : Yes/No.