

232 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 5062 of 2016 (OM)
Date of decision : 9.2.2018

Umed Singh and others

..... Petitioners

Versus

Anand and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. I.S. Pabla, Advocate, for petitioners.
Mr. Badal Malik, Advocate, for,

Mr. S.R. Hooda, Advocate,
for respondents.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

Heard.

Impugned in present revision is order dated 4.2.2016 (Annexure-P-3), passed by learned Additional District Judge, Sonapat, vide which an application filed by present four petitioners-appellants alongwith Balbir Singh and Ran Singh (co-appellants) for allowing them to file appeal as indigent persons under Order XXXIII Rule 1 of Civil Procedure Code, 1908, was dismissed.

It comes out that a suit for possession was decreed against six defendants including present petitioners. All six defendatns then filed an appeal alongwith an application under Order XXXIII Rule 1 CPC, 1908, stating that they are unable to affix Court fee of Rs. 74,000/- and that they have got no source of income. The learned Additional District Judge, Sonapat, took the view that Balbir Singh owns agriculture land. He is

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Ex Sarpanch and retired as a Captain from Army and getting handsome pension. Regarding Ran Singh (appellant) certain observations are made regarding ownership of a car. Regarding other appellant Umed Singh, it was stated that he is suffering from paralysis and has no source of income. Regarding appellant Jai Hind, it was stated that he is suffering from cancer and has no source of income and, therefore, learned Additional District Judge, Sonapat, came to conclusion that all the appellants are real brothers. It is admitted that they are living in their own houses. Since one of the appellants is getting pension of Rs. 27,000/- per month, therefore, it cannot be said that appellants are not able to affix the court fee.

I am of the view that if the appeal is filed by six appellants and the Court finds that one or two persons have sufficient source of income to affix the court fee, the permission can be declined to them and at the same time, the permission to sue as indigent persons can be granted to remaining appellants if it is found that they do not have any source of income. Said Balbir Singh and Ran Singh have not come up in present revision. Since it is not proved that present petitioners, namely, Umed Singh, Randhir Singh, Satbir Singh and Jai Hind, have got any source of income and are not in a position to pay the court fee, therefore, instant revision is allowed. The impugned order is qua them is set aside.

(KULDIP SINGH)
JUDGE

9.2.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No