

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

**CR No.4946 of 2018
Date of Decision: 03.08.2018**

J.P. GUPTA

.....PETITIONER

VERSUS

**M/S KISHAN SINGH UJAGAR SINGH AND ANOTHER
.....RESPONDENTS**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Amit Arora, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner is defendant No.2 in a suit for recovery of Rs.24,70,242.61. Vide order dated 25.08.2017, 15 days time was granted to make good the deficiency in Court fee. The aforesaid time of 15 days was to expire on 09.09.2017. Trial Court passed the order on 08.09.2017 i.e. one day earlier to the date of expiry of period of 15 days, thereby rejecting the plaint for want of *ad valorem* Court fee as well as for non-prosecution of the suit.

[2]. The application for restoration of the suit/plaint rejected for non-payment of Court fee was filed on 09.09.2017 itself to

show readiness and willingness of the plaintiff to make good the deficiency in Court fee. The application was allowed by the Additional Civil Judge (Senior Division), Tarn Taran vide order dated 21.02.2018.

[3]. Even though, the order dated 08.09.2017 was appealable and even fresh suit can be filed under Order 7 Rule 13 CPC, still for the illegality committed by the trial Court on 08.09.2017, rejecting the plaint for want of *ad valorem* Court fee before the expiry of 15 days period granted on 25.08.2017, a judicial notice can be taken by this Court because the trial Court could not have rejected the plaint a day earlier to the expiry of stipulated period of 15 days.

[4]. In my considered opinion, impugned order is corrective measure adopted by the trial Court. Plaintiff cannot be relegated to any remedy of appeal or filing fresh suit on the basis of illegal order dated 08.09.2017. No indulgence can be granted in the present revision petition. The present revision petition is accordingly dismissed.

August 03, 2018

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**(RAJ MOHAN SINGH)
JUDGE**

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No