

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: October 30, 2018

1. Civil Revision No.6306 of 2016 (O&M)

R.K.Manchanda

...Petitioner

Versus

Punjab State Warehousing Corporation, Chandigarh & another

...Respondents

2. Civil Revision No.6331 of 2016 (O&M)

R.K.Manchanda

...Petitioner

Versus

Punjab State Warehousing Corporation, Chandigarh & another

...Respondents

3. Civil Revision No.6332 of 2016 O&M)

R.K.Manchanda

...Petitioner

Versus

Punjab State Warehousing Corporation, Chandigarh & another

...Respondents

4. Civil Revision No.6333 of 2016 (O&M)

R.K.Manchanda

...Petitioner

Versus

Punjab State Warehousing Corporation, Chandigarh & another

...Respondents

5. CWP No.6334 of 2016 (O&M)

R.K.Manchanda

...Petitioner

Versus

Punjab State Warehousing Corporation, Chandigarh & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Nakul Sharma, Advocate,
for the petitioner in all the cases.

Mr. Jastej Singh, Advocate,
for the respondents in all the cases.

AMIT RAWAL, J. (Oral)

This order shall dispose of five Civil Revision Petitions bearing No.6306, 6331, 6332, 6333 and 6334 of 2016 as the common question of law and fact is involved.

The aforementioned revision petitions have been filed against the order dated 02.09.2016 (Annexure P-1), whereby the application filed by the petitioner-defendant before the Lower Appellate Court seeking permission of the Court under Order 44 Rule 1 CPC to file the appeal as an indigent person, has been dismissed.

Mr. Nakul Sharma, learned counsel representing the petitioner-defendant submitted that the Punjab State Warehousing Corporation filed suit for recovery of amount against the petitioner-defendant on account of the loss suffered, i.e., shortage in the damaged wheat stocks as he was incharge of the particular area.

The aforementioned suit has been decreed. The petitioner has no other means or land to pay the court fees of the amount sought to be recovered and in this regard drew the attention of this Court to the order dated 06.05.2016, wherein the trial Court noticed the report of the Collector

who reported that there was no land in the name of Rajinder Kumar son of Sant Ram. In support of the aforementioned contention, relied upon the judgment of this Court in **Santa Versus Jarnail Singh, 2010(5) Law Herald 3962** to contend that the Additional District Judge has not assigned any rationale findings in rejecting the application, particularly when the petitioner has been found to be not owning any land.

Per contra, Mr. Jastej Singh, learned counsel representing the respondents submitted that ownership of the land is in consequential for seeking leave under Order 44 Rule 1 CPC as it was a serious case of embezzlement at the instance of the petitioner-defendant. The petitioner had been serving as Additional District Manager nor had stepped into the witness box and, thus, urged this Court for dismissal of the revision petitions.

I have heard the learned counsel for the parties and appraised the paper book.

There is no dispute to the ratio decidendi culled out in the judgment cited by the learned counsel for the petitioner, but the facts of each and every case have to be examined in applying the ratio decidendi. The petitioner has not submitted any request for leading evidence at the report of the Collector that even if he does not own the land, he had no sufficient means to pay the court fees. Had that opportunity been availed, the findings could have been otherwise. In the absence of the same, filing of the application was nothing but an attempt to part with liability of the payment of the court fees. It is mandatory requirement of law to pay the same.

I cannot remain unmindful of the fact that wheat stock can be

stored for numerous years, if required care is taken. In my view, the order in dismissing the application for indigent person cannot be said to be without jurisdiction. Resultantly, the revision petitions are dismissed. Two months time is granted to the petitioner to make the deficiency of the court fees good.

October 30, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No