

CR No. 6126 of 2018 (O&M)
Date of Decision: 08.10.2018

Mohinder Singh

.....Petitioner

Versus

Sita Ram and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. R.D. Sharma, Advocate for the petitioner.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 07.08.2018, passed by the District Judge, Kaithal (for short, the Appellate Court), through which an application filed by the petitioner under Order 33 Rules 1, 2 and 3 and Order 44 Rule 1 read with Section 151 CPC for declaring him to be as an indigent person has been dismissed.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the petitioner filed a suit seeking therein a decree for rendition of accounts of Hotel Palki which according to him was under his ownership. Mandatory injunction directing the respondents to hand over the vacant possession of the aforesaid hotel to the petitioner was also sought. On being put to notice, the respondents, who were defendants in the suit, appeared before the Trial Court and filed an application under Order 7 Rule 11 CPC seeking therein rejection of the petitioner's plaint on the ground that his suit was under valued. Such application was allowed by the Trail Court on 20.08.2014 against which the

petitioner knocked the doors of this Court through CR-6027-2014 – ‘Mohinder Singh Vs. Sita Ram and others’, which was dismissed by this Court on 17.05.2018. In the meanwhile, the Trial Court continued to proceed with the petitioner’s suit and dismissed the same on 14.03.2018 against which the petitioner filed an appeal before the Appellate Court. Since, during the pendency of the appeal, the aforesaid revision petition was dismissed by this Court on 17.05.2018 and the petitioner was now required to pay *ad valorem* Court fee, he filed an application before the Appellate Court seeking therein to be declared an indigent person. On dismissal of such application, the present revision petition has been filed.

Learned counsel for the petitioner submits that the Appellate Court erred in not declaring the petitioner to be an indigent person as he was an old man aged 80 years; as per memo of parties he was living in a Gurudwara; had no means either to pay the Court fee or to pursue the instant litigation and that the Appellate Court had rejected the petitioner's application without holding an inquiry.

The submissions made by the learned counsel for the petitioner have been considered but no merit in the same is found.

It is the admitted position that the suit property which the petitioner owns and qua which he filed his suit seeking therein rendition of accounts is valued at about ₹75 Lakhs. Further, at the time of filing of the suit, the petitioner, without any protest, appended the requisite Court fee thereupon @ ₹5,300/- and thereafter vigorously pursued the litigation before the Trial Court, before this Court and then before the Appellate Court by engaging different counsel and without seeking to be declared as an indigent person. Only when his afore referred revision petition was dismissed by this Court and he was now required to pay *ad valorem* Court fee did he file an

application seeking therein to be declared as an indigent person. In the light of the aforesaid facts the petitioner’s application lacked both merit and bonafides.

Dismissed.

08.10.2018
Sandeep

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No