

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

CR-8153-2015 (O&M)

Date of decision : 23.3.2018

Dr. Sudhir Sharma

..... Petitioner

Versus

Ram Sunder

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Puneet Sharma, Advocate for the petitioner.

Mr. Angel Sharma, Advocate for respondent.

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 ?*

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 7.11.2015 (Annexure P-10) passed by learned Civil Judge (Junior Division) Jagadhari, vide which an application filed by the plaintiff-respondent under Order XXXIII Rule 1 of the Code of Civil Procedure, 1908, to declare him as indigent person was allowed.

Heard.

Learned counsel for the petitioner has argued that learned trial Court considered the report of the Collector dated 22.8.2014 which shows that there is one *katcha* house in the name of the wife of the applicant-plaintiff and that applicant-plaintiff is a labourer and he has no movable or immovable property. Learned trial Court also observed that petitioner-defendant has not brought on record anything to show that applicant is not an indigent person.

Learned counsel for the petitioner has further pointed out that all these facts were not considered by learned trial Court critically. There was an agreement of the construction of the Pateleshwar Temple at

Yamunanagar which was for Rs. 4,90,000/- between the plaintiff-respondent and defendant-petitioner. He has further pointed out certain receipts of payment. He has also pointed out that on his application, documents were produced to show that plaintiff also owns another House No. 1301 at Vishwakarma Colony near Krishna Temple, Jagadhari measuring 150 square yards.

Learned counsel for the petitioner has further argued that since the plaintiff-respondent is a contractor and therefore he cannot be a labourer and that he has got sufficient money to pay Court fee amounting to Rs. 5,000/- as claimed in the plaint.

I am of the view that from the order impugned, it is not clear as to whether these documents are brought on record or not. In the circumstances, impugned order dated 7.11.2015 (Annexure P-10) passed by learned Civil Judge (Junior Division) Jagadhari is hereby set aside. Learned trial Court is directed to go into all the documents and record specific findings giving reasoning as to whether the plaintiff-respondent is a labourer and does not have any source to pay the Court fee and is an indigent person?

Revision petition is allowed with above noted extent.

However, nothing observed above shall be taken into consideration while deciding the application afresh.

Since the main petition has been allowed, the miscellaneous application pending, if any, stands disposed of.

(KULDIP SINGH)
JUDGE

23.3.2018
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Whether speaking / reasoned
Whether Reportable:

Yes/No
Yes/No