

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

CR-7902-2018 (O&M)
Date of Decision: 21.11.2018

Om Parkash

.... Petitioner

Versus

Lekh Ram (since deceased) through his LRs and another

... Respondents

CORAM: HON'BLE MR.JUSTICE AVNEESH JHINGAN

Present:- Mr.P.S.Jammu, Advocate
for the petitioner.

AVNEESH JHINGAN, J. (Oral)

The present civil revision petition has been filed under Article 227 of the Constitution of India seeking quashing of order dated 18.10.2014 passed by learned Civil Judge (Junior Division), Sirsa and order dated 27.03.2017 passed by learned Additional District Judge, Sirsa. The petition is accompanied by an application for condonation of delay.

The petitioner/plaintiff filed a suit for possession by way of specific performance of sale agreement dated 03.08.2010 for the sale of the agricultural land measuring 68 kanals, 19 marlas, being 2/4th share of total land measuring 137 kanals 18 marlas Kitta 21, comprised in Khewat No.67 Khatoni No.272 situated in village Randhawa, Tehsil and District Sirsa, as per jamabandi for the year 2006-07. The suit was instituted in the year 2014 without filing the court fee. Even after three months, no court fee was filed in the suit inspite of several opportunities provided by the Court. The suit

was rejected under Order VII Rule 11 of the Code of Civil Procedure, 1908 (for brevity, 'CPC') vide order 18.10.2014.

The order was assailed by filing an appeal. The appeal was dismissed vide order dated 27.03.2017. Hence, the present revision petition has been filed.

Learned counsel for the petitioner/plaintiff contended that the Court below erred in dismissing the suit and the appeal. He argued that if reasonable time is granted, the petitioner/plaintiff shall affix the court fee now.

The contention raised by learned counsel for the petitioner deserves rejection.

The suit was instituted in 2014. Till the summary rejection of the suit, no court fee was filed. Only a court fee of ₹30 was affixed by the petitioner/plaintiff. He filed an application for exemption of stamp duty and for granting two months' time for arranging the amount of fee.

Learned trial Court directed to pay the Court fee on or before 01.10.2014. On the said date, no court fee was furnished, rather, another application was filed for further extension of time. Even that application was allowed and the case was adjourned to 09.10.2014. The petitioner/plaintiff failed to furnish the court fee on the said date also. The case was adjourned to 18.10.2014. On 18.10.2014, none appeared on behalf of the petitioner/ plaintiff. Learned trial Court had no other option but to reject the suit under order VII Rule 11 of CPC.

The order was assailed in appeal, which was filed beyond limitation with an application for condonation of delay. Even before the Appellate Court, the petitioner/plaintiff had not shown the willingness to

furnish the court fee. The process of law was being misused to gain time.

In the present petition, even today, the prayer is that a reasonable time may be granted to the petitioner so that he can arrange the court fee.

No interference is called for in the impugned orders.

The civil revision petition is dismissed accordingly.

Since the petition has been dealt with on merits, the issue of limitation in filing the revision petition is kept open.

21.11.2018
anju

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No