

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

Sr. No.112

C.R. No.7977 of 2018

Date of decision: 28.11.2018

Suresh Kumari @ Suresh Rani

....Petitioner

versus

Ramesh Kumar and another

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Brijender Kaushik, Advocate
for the petitioner.

* * *

DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 30.07.2018 passed by the District Judge, Panchkula (for short – the Appellate Court) dismissing the application filed by the petitioner seeking extension in the time granted by the Appellate Court to deposit the requisite Court fee required to be deposited by her alongwith her appeal.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that respondent No.1-Ramesh Kumar filed a suit seeking therein the issuance of a direction to the petitioner and her son (respondent No.2) to vacate the property detailed and described in the plaint (for short – the suit property). Such suit was decreed on 07.11.2017 and resultantly, the petitioner and respondent No.2 were directed to vacate the suit property within three months. The petitioner alongwith her son (respondent No.2) filed an appeal against the aforesaid

judgment and decree. Since the requisite Court fee has not been appended alongwith the appeal, the Appellate Court directed the petitioner and respondent No.2 to make good the Court fee. Initially, the Court fee was directed to be affixed on or before 16.04.2018. However, on prayer made by the petitioner, the date was extended to 23.07.2018. Since the Court fee was not deposited by the petitioner by the above date, an application was filed by her seeking further extension in time for depositing the requisite Court fee. The application was dismissed by the Appellate Court through the order which is the subject matter of challenge in the present proceedings.

Learned counsel for the petitioner submits that the petitioner is a widow and is in receipt of monthly family pension @ ₹8000/- and therefore, she could not deposit the requisite Court fee within time. He further submits that amount of Court fee has now been arranged by the petitioner and the same can be deposited in the Appellate Court within one week from today.

In the peculiar facts of the present case, wherein the petitioner is a widow and is said to be surviving on her late husband's pension which is also a meager amount of ₹8,000/- per month as also for the reason that learned counsel for the petitioner undertakes that the requisite Court fee shall be deposited by the petitioner before the Appellate Court within one week from today, the impugned order is set aside and the petitioner is granted one week's time to make good the payable Court fee. If such deposit is made within one week from today, her appeal shall be considered and dealt with in accordance with law. However, the above is subject to payment of ₹5000/- as costs.

The present petition is allowed in the above terms.

If respondent No. 1 is aggrieved by passing of the present order
he is at liberty to approach this Court by filing of an appropriate application.

(DEEPAK SIBAL)
JUDGE

November 28, 2018
Jyoti 1

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