

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

**SAO No.52 of 2018 (O&M)
Date of decision : May 10, 2018**

Savitri Devi

..... Appellant

Versus

Kuldeep Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Arun Takhi, Advocate for the appellant.

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)

Learned counsel for the appellant contends that in a suit filed by the plaintiff-respondent under Order XXXVI CPC, 1908, leave to defend was declined by the learned Civil Judge (Jr. Divn.), Chandigarh and the judgment and decree dated 21.07.2016 was passed. In an appeal filed by the present appellant, learned Addl. District Judge, Chandigarh, allowed the appeal and allowed the appellant to defend the suit but imposed a condition to furnish a continuing bank guarantee equivalent to the decretal amount within 15 days after he puts in appearance before the trial Court.

Learned counsel for the appellant contends that this condition is very harsh. Since there are triable issues, therefore, it will be unjust to ask the defendant to furnish continuing bank guarantee, which will require to deposit the decretal amount in the bank.

Learned counsel for the appellant relies upon the judgment of Hon'ble the Supreme Court of India delivered in case of “*Santosh Kumar vs Bahi Mool Singh*”, 1958 AIR (SC) 321.

Heard.

After considering that the lower appellate Court has found that there are triable issues, I am of the view that in place of furnishing continuing bank guarantee equivalent to the decretal amount, the appellant-defendant can be asked to furnish the surety of some immovable property equivalent to the decretal amount in the Court.

Accordingly, the order passed by the lower appellate Court is modified to the extent that in place of furnishing continuing bank guarantee, the present appellant shall furnish surety of some immovable property equivalent to the decretal amount before the trial Court within next 15 days.

As such, the present appeal is disposed of. Since, the main appeal has been disposed of, therefore, the pending application, if any, also stands disposed of.

(KULDIP SINGH)
JUDGE

May 10, 2018

sarita

Whether speaking / reasoned Yes

Whether Reportable: No