

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 117

Case No. : C. R. No. 1390 of 2019

Date of Decision : February 27, 2019

Ajit Singh Petitioner

vs.

State Bank of India Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Mr. C. M. Munjal, Advocate
for the petitioner.

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DEEPAK SIBAL, J. (Oral) :

The present petition is directed against the order dated 04.05.2018, passed by Additional District Judge, Fazilka (for short – the Appellate Court), through which the petitioner's appeal was dismissed on the ground that he had failed to deposit the court fee within the allotted time.

The respondent – State Bank of India (for short – the Bank) filed a suit against the petitioner seeking therein recovery of Rs. 6,21,078/- along with interest. Such suit was decreed by the Trial Court on 09.01.2018. The petitioner filed an appeal against the aforesaid judgment and decree. Since along with the appeal, the applicable court fee had not been deposited, on prayer made on behalf of the petitioner, the Appellate Court granted him time to do so but when even after sufficient number of

opportunities, the petitioner failed to make good the deficiency of court fee, through the impugned order dated 04.05.2018, his appeal was dismissed. Such order is under challenge through the present revision petition.

Learned counsel for the petitioner has been heard.

Through judgment and decree dated 09.01.2018, the Trial Court decreed the recovery suit filed by the respondent against the petitioner. On 05.03.2018, the petitioner filed an appeal against such decree. Since along with his appeal, the petitioner had not deposited the applicable court fee, on prayer made on his behalf, the Appellate Court granted him several opportunities to do so but to no avail resulting in the dismissal of his appeal for want of deposit of applicable court fee.

It is the petitioner's case that the applicable court fee could not be deposited by him in the allotted time as he could not arrange the same. He undertakes to deposit the same if one opportunity is granted to him to do the needful.

On equitable grounds as also for the reason that through the present petition, all that the petitioner seeks is the disposal on merits of a statutory remedy available to him, subject to payment of Rs.40,000/- as costs to be deposited with the Army Welfare Fund Battle Casualties, Account No.90552010165915, Syndicate Bank, South Block Branch, New Delhi (IFSC Code: SYNB0009055) as also deposit of the applicable court fee within ten days from the date of receipt of a certified copy of this order, the impugned order is set aside. Resultantly, subject to the aforesaid deposits, the petitioner's appeal would be entertained and adjudicated upon

by the Appellate Court in accordance with law.

The above costs have been imposed not only because the petitioner failed to deposit the applicable court fee within the allotted time but also for the reason that against the impugned order, the petitioner has filed the present petition after an unexplained delay of about nine months, thus delaying its disposal to the prejudice of the respondent-Bank.

The petition is allowed in the above terms.

If the respondent-Bank is aggrieved by passing of the present order, it is at liberty to approach this Court by filing of an appropriate application.

(DEEPAK SIBAL)
JUDGE

February 27, 2019
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<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>