

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

**CR No.3450 of 2019(O&M)
Date of Decision: 23.05.2019**

Council of Secondary Education, MohaliPetitioner

Versus

Rohit Kumar and anotherRespondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Mohinder Kumar, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this revision petition for setting aside the order dated 07.02.2019 passed by Additional Civil Judge (Senior Division), Faridkot vide which application filed by the plaintiff/respondent No.1 to sue as forma pauperis was allowed.

[2]. Plaintiff/respondent No.1 filed a suit as indigent person in forma pauperis for recovery of Rs.10,00,000/- as damages/compensation on account of his illegal and unauthorized harassment, mental tension and causing damage to the status and prestige of the plaintiff.

[3]. Plaintiff in his cross-examination has stated that he has

no source of income and is not working anywhere. He was married just 3-4 months ago. His father is working as a gate man in Railway Department. He himself is a matriculate and has given fee in Unique Public School and admission fee was separately given. He pleaded no source of income. The cross-examination of the plaintiff did not yield any incriminating information in favour of the defendant. He has denied his income to be Rs.10,000/- per month. The income of the father was not applicable to him. Defendant could not prove that the plaintiff was working somewhere and was drawing salary.

[4]. No documentary evidence was produced to show sufficient income of the plaintiff. Even report of the Collector was sought. As per report dated 20.11.2017 submitted by the Collector, factum of the plaintiff being indigent person was endorsed and it was recorded that the plaintiff has no moveable and immoveable property in his name. The said evidence could not be countered by the defendant except to make oral submissions.

[5]. Trial Court has granted indulgence in favour of the plaintiff and declared him as indigent person and permitted him to pursue the suit as indigent person without affixation of Court fee. However, the aforesaid permission was granted with a rider that in case, the suit of the plaintiff is decreed, then the payment

of Court fee shall be the first charge on the subject matter of the suit. With the aforesaid reasons, suit was registered under Order 33 Rule 8 CPC.

[6]. Learned counsel for the petitioner relied upon cross-examination of the plaintiff/respondent No.1 while appearing as AW 1.

[7]. Perusal of the cross-examination of the plaintiff/respondent No.1 does not connect the same with the proposition as sought to be projected by learned counsel for the petitioner in the context of assets and earning of the plaintiff/respondent No.1. The questions with regard to proprietorship of Binu Sound Service, ownership of Acura and mobiles remained inconclusive and in such situation, the indulgence granted by the trial Court on the basis of report submitted by the Collector has to prevail.

[8]. In my considered opinion, the indulgence granted by the trial Court cannot be faulted with. This revision petition is accordingly dismissed.

23.05.2019

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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No