

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

**Regular Second Appeal No. 479 of 2017
Date of Decision: April 05, 2019**

Pal Singh

.....APPELLANT

VERSUS

Kamaljit Kaur and others

.....RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Jai Bhagwan, Advocate
for the appellant.

Mr. Abhishek Goyal, Advocate for
Mr. Pardeep Goyal, Advocate
for respondents No. 1 to 4.

SURINDER GUPTA, J.(Oral)

Heard.

The suit of the plaintiff was dismissed for non payment of ad-valorem court fee as per the order passed in Civil Revision No. 3764 of 2013 decided on 30.08.2016. While deciding the revision petition, the Co-ordinate Bench of this Court has directed the appellant to pay the ad-valorem court fee on sale consideration mentioned in the sale deed within a period of one month.

The appellant did not pay the same and his plaint was rejected by the trial Court vide order dated 03.10.2016.

Learned counsel for the appellant submits that appellant could not pay the court fee as he was not duly intimated by his counsel in the trial Court in this regard. He was willing to pay the court fee and sought

extension of time but his plea was not accepted by the trial Court or by the

Appellate Court on the ground that they have no jurisdiction to extend the time. The application was also moved before this Court seeking extension of time which was dismissed as withdrawn as by that time plaint had already been rejected.

Learned counsel for the respondent has argued that though the appellant is attributing the lapse on the part of his counsel but he has not come up with any affidavit in this regard and as such, he can not be permitted to pay the court fee at this stage.

The suit of the plaintiff was not decided on merits. His plaint was rejected due to non-payment of ad-valorem court fee. Though, there is a lapse on the part of appellant on this score but keeping in view the interest of justice and for disposal of claim of appellant on merit, he is allowed one more chance to pay ad-valorem court fee, as ordered.

Keeping in view the above facts, this appeal is allowed and the appellant is allowed one month's time from the date of this order to pay the ad-valorem court fee, as per the order dated 30.08.2016 passed in Civil Revision No. 3764 of 2013, subject to payment of ₹10,000/- as costs which will be deposited with the Punjab & Haryana High Court, Employees Welfare Association within two weeks.

The parties are directed to appear before the trial Court on 08.05.2019, on which date, the file will be taken on Board and learned trial Court shall proceed to decide the same on merits as per observations above.

April 05, 2019
Jyoti-II

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No