

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

**C.R. No 7022 of 2019
Date of decision : 04.12.2019**

Sukhbir Singh & anr.

....Petitioners

versus

Ninder Kaur and anr.

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Dheeraj Mahajan, Advocate
for the petitioners.

RITU BAHRI, J. (Oral)

Challenge in this petition is to order dated 30.08.2019 passed by learned Civil Judge (Jr. Divn.) Batala where by application under Order 33 Rule 1 read with Order 7 Rule 1 CPC seeking permission to sue as a forma pauperis filed by respondent-plaintiff has been allowed.

Learned counsel for the petitioners has referred to contents of para No. 14 of the impugned order and contends that the applicant was having a sum of Rs.1,06,385/- as on 23.12.2015 and Rs.1,18,168/- as on 13.05.2016 but the Court has allowed the application on the ground that mere fact that the applicant was having a sum of Rs.1 lac in her bank account, it will not be sufficient to held that applicant was having sufficient means to pay Court fee.

Today, learned counsel for the petitioners has informed the Court that vide sale deed dated 10.12.2018, the plaintiff has again sold the portion of land for Rs.1,40,000/-.

But even if Rs.1,40,000/- is added to the amount already lying in the bank account of the plaintiff, this cannot be said that plaintiff was having regular

source of income to survive. Moreover, petitioner in his cross examination has admitted that plaintiff had 02 acres 03 kanals and some marlas of land but she has no income at present.

Learned counsel is relying upon judgment of Hon'ble the Supreme Court of India in a case of *Mathai M. Paikeday vs. C.K. Antony, 2011 AIR (SCW) 4416*.

This judgment is not applicable to the facts of the present case, as in that case, the respondent was having regular income as he was drawing pension of Rs.10,500/- per month.

In view of the discussion made above, the present petition is dismissed

December 04, 2019
G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>