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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
10/4/2019 15:33
I attest to the accuracy and
authenticity of this document

CR-330-2019 (O/M)
Date of decision : 10.4.2019

M/s Hindustan Construction Company Petitioner (s)

Versus

M/S R.S. Engineering Respondent (s)

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ajay Jain, Advocate,
for petitioner.

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KULDIP SINGH, J. (ORAL)

Impugned in present revision is order dated 19.9.2018 (Annexure-P-1), passed by learned Civil Judge (Senior Division), Sonapat, vide which application filed by plaintiff-respondent, to pursue suit as an indigent person, was allowed.

Facts of case are that plaintiff had filed a suit for recovery of Rs. 26,69,778/- alongwith interest at the rate of 24% per annum. Alongwith suit, an application was filed for permission to pursue suit as indigent person.

The trial Court, after going through application, framed following issues :-

- i) Whether applicant is indigent person and exempted from the payment of court fee ? OPA
- ii) Whether the present application is not maintainable ? OPR
- iii) Whether the applicant has not come to the Court with clean hands ? OPR
- iv) Relief.

In support of application, plaintiff-respondent led evidence.

Petitioner-defendant did not lead any evidence. The trial Court, vide impugned order, held that applicant is an indigent person and accordingly allowed application.

I have heard learned counsel for petitioner and have also carefully gone through file.

The learned counsel for petitioner contends that trial Court erred in relying upon the report of Collector regarding financial status of proprietor firm of plaintiff and not calling for income tax and sales tax returns to see whether plaintiff firm has got sufficient means to pay court fee.

The perusal of impugned order shows that plaintiff firm is a sole proprietorship firm. As per copy of report of Collector as verified from local Municipal Councilor, produced before this Court, Collector has reported that factory of plaintiff firm has been closed. She is in debts. She has got no property to pay court fee.

The learned counsel for petitioner contends that income tax and sales tax returns of plaintiff firm have not been produced. Therefore, it should be held that plaintiff firm has got sufficient means to pay court fee.

I am of the view that trial Court has decided application of applicant on the basis of evidence available before it. It is sole proprietorship firm. Plaintiff Roshni Devi is in debts and there is nothing on file to show that she has got sufficient means to pay court fee.

The learned counsel for petitioner further contends that though application was presented by applicant in person, but advocate was also present, therefore, it cannot be said that plaintiff-applicant is an indigent person.

I am of the view that under Order XXXIII Rule 3 CPC, 1908, it

is nowhere laid that if advocate is also present with applicant, it is to be held that applicant is not an indigent person.

Basically, the payment of court fee is between Court and plaintiff. The court fee will be recovered at a later stage after suit is decided in favour of one or other party. There is no illegality or infirmity in impugned order. Thus, revision petition is dismissed.

(KULDIP SINGH)
JUDGE

10.4.2019
sjks

Whether speaking order : Yes / No

Whether reportable : Yes / No