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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.7494 of 2019 (O&M)
Date of Decision: 26.11.2019

Mahipal ......Petitioner

Vs

Hemant Kumar ....Respondent

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

Present: Ms. Bhavna Grewal, Advocate
for the petitioner.

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RAJ MOHAN SINGH, J.

[1]. This revision petition has been preferred against the order dated 30.10.2019 passed by the Additional Civil Judge (Sr. Divn.) Mohindergarh vide which the trial Court has disposed of the application moved by the plaintiff for affixing requisite stamp duty along with penalty amount on the *Bahi* writing dated 18.04.2013.

[2]. The indulgence has been granted by the trial Court on the basis of precedents to the effect that the Court is empowered to admit a document which is insufficiently stamped even if the party producing the same is ready to pay stamp duty along with the penalty amounting to ten times of the deficiency in the stamp duty.

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[3]. Apparently, the plaintiff filed a suit on the basis of his claim with regard to a loan allegedly given by him to the defendant on the basis of Bahi entry Ex.PW-3/B. No revenue stamp was affixed on the said *Bahi* entry. Thereafter, the application was moved by the plaintiff to affix requisite stamp duty along with penalty on the said *Bahi* entry dated 18.04.2013.

[4]. The Hon'ble Apex Court in ***Chilakuri Gangulappa vs. Revenue Divisional Officer, Etc. & Anr., 2001(3) LW 113*** held that the Court is empowered to admit even insufficiently stamped document, if the party relying upon such document is ready to make good the stamp duty along with penalty to the tune of ten times of the deficiency in the stamp duty.

[5]. The aforesaid view was endorsed by the High Court in ***Hari Ram (dead) through LRs vs. M/s Hakumat Rai Harbhajan Lal Soap, Merchants, Mandi Ahmedgarh, 2011(1) R.C.R. (Civil) 902*** by holding that the plaintiff can make good the deficiency in stamp duty along with penalty amount and thereafter the said document can be read in evidence. Even such a discretion can be exercised by the Appellate Court to read such a document on payment of stamp duty and penalty.

[6]. The issue in question is no more *res integra*. It is a settled law that when the document is found to be deficient in terms of stamp duty, then the Court instead of dismissing the

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suit on that premise can ask the plaintiff to make good the deficiency along with requisite penalty prescribed by the law. If the plaintiff persists in not adhering to the requirement of law, even after notice by the Court, then the Court can proceed to dismiss the suit on that premise. Deficiency in stamp duty can be made good at any stage of proceedings.

[7]. In the instant case, the deficiency in stamp duty of Rs.5/- along with eleven and half time penalty is recoverable from the plaintiff. The indulgence granted by the trial Court in the said context cannot be held to be without jurisdiction or suffered with any perversity. The trial Court has not committed any wrong while granting the aforesaid indulgence in accordance with law.

[8]. In view of aforesaid, this revision petition is found to be totally devoid of merits and is accordingly dismissed.

November 26, 2019 **(RAJ MOHAN SINGH)**
Atik **JUDGE**
Whether speaking/reasoned Yes/No
Whether reportable Yes/No

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