

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

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CR No.1883 of 2021 (O&M)
DATE OF DECISION : 10th SEPTEMBER, 2021

M/s Sai Yarns

.... Petitioner

Versus

Adonis Textiles Pvt. Ltd. and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court

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Present : Mr. Sandeep Kotla, Advocate for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

This is a revision petition filed under Article 227 of the Constitution of India read with Section 151 CPC for setting aside the impugned order dated 16.01.2019 passed by the Civil Judge (Junior Division), Panipat (for short, the trial Court), vide which the plaint was rejected under Order 7 Rule 11 CPC for deficiency of Court fee and prayer for restore the suit on its original number and status.

The grievance of the petitioner is that it had paid the full amount of court fee to its counsel. The counsel played a mischief of not paying the court fee and misappropriated the same. Without any instructions from the petitioner, the counsel filed an application for seeking permission from the Court to file suit as an indigent person. The petitioner never intended or asked its counsel to file the suit as an indigent person. Not only

this, the trial Court repeatedly issued directions for personal appearance of the petitioner. However, the counsel kept the petitioner in total dark about these orders. Hence, the situation of non-affixation of the appropriate court fee has arisen because of the manipulation on the part of the counsel for the petitioner-plaintiff. Learned counsel for the petitioner has further submitted that since the petitioner has now come to know of the factum of deficient court fee having been affixed, therefore, the petitioner be granted one opportunity to affix the appropriate court fee.

After going through the zimini orders passed by the trial Court only, which have been placed on record in the present petition, this Court does not find any fault with the impugned order passed by the trial Court, as such.

However, having heard learned counsel for the petitioner and having perused the case file, this Court is of the view that any alleged dispute between the counsel and the petitioner is their own concern. If the petitioner is having any genuine complaint against its counsel, the petitioner can avail the remedies against its counsel, in accordance with law. However, the fact remains that public time has been wasted because of the repeated adjournment of the case; just for making up the deficiency of the court fee. Hence, although this Court does not find any illegality with the impugned order passed by the trial Court, as such, however, since the petitioner has expressed the events having happened in a particular manner and have pleaded ignorance about the fact of deficient affixation of the court fee, therefore, it would not be unjustified to grant one opportunity to the petitioner to make up the deficiency in the court fee, however, by subjecting the petitioner to an appropriate financial burden.

Accordingly, the present revision petition is disposed of with a direction to the trial Court to grant one opportunity to the petitioner to make good the deficiency in the court fee. This is however subject to payment of Rs.10,000/- as costs. The costs is ordered to be deposited with the Institute for Blind, Sector-26, Chandigarh, within a period of 15 days.

On production of the receipt of having deposited the costs, as ordered above, the trial Court shall grant 15 days time to the petitioner to make up the deficiency in the court fee.

Disposed of accordingly.

10th SEPTEMBER, 2021
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(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned:

Yes

No

Whether Reportable:

Yes

No