

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

CR-62-2022

Date of decision : 18.07.2022

Samina

...Petitioner

Vs.

Premwati and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Khalid Tauru, Advocate
for the petitioner.

MANOJ BAJAJ, J.

Petitioner (plaintiff) has approached this Court under Article 227 Constitution of India for setting aside the order dated 01.12.2021 (Annexure P-7), whereby his application moved under Order 33 Code of Civil Procedure, 1908 in Civil Suit No.565-2016 seeking permission to sue as an indigent person, was dismissed.

Learned counsel for the petitioner has argued that the petitioner is a widow and being a poor lady is unable to affix the ad valorem court fee, therefore, she be allowed to continue with her suit as an indigent person. He submits that the trial Court failed to appreciate the status of the petitioner and wrongly declined his applicatoin, therefore, the impugned order is not sustainable and deserves to be set aside.

During the course of hearing, it is not disputed by learned counsel that the petitioner filed a suit for declaration and permanent injunction to challenge the sale deed bearing No.4220 dated 01.02.2016 executed by her as well as mutation with a prayer to declare the sale deed and mutation as illegal, null and void. It is not disputed that while filing the

suit, no application under Order 33 CPC was moved, who fairly concedes that prior to his application, an application under Order 7 Rule 11 CPC filed by defendant was accepted vide order dated 09.03.2018 (Annexure P-4), and plaintiff was directed to affix ad valorem court fee on the plaint.

After hearing learned counsel and considering the material on record, this Court finds that the trial Court has taken into consideration the relevant pleadings, including the fact that at the time of execution of the impugned sale deed, sale consideration of Rs.6,37,500/- was passed on, and in the absence of any explanation that how the said money was utilized, the stand of the plaintiff raised in the application is not worth acceptance.

Further upon perusal of the impugned order, this Court finds that the trial Court has rightly come to the conclusion that the filing of application under Order 33 CPC is an afterthought. w

Resultantly, no ground is made out to interfere with the impugned order, as it does not suffer from any illegality or impropriety.

Dismissed.

(MANOJ BAJAJ)
JUDGE

18.07.2022

vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No