

221 IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CR-1433-2017 (O&M)  
Decided on:-07.12.2022

Hari Ram

....Petitioner..

vs.

General Public and others

....Respondents.

**CORAM:HON'BLE MR. JUSTICE HARKESH MANUJA**

Present: Mr. Sumit Sangwan, Advocate,  
for the petitioner.

Respondents No.2 to 4 ex-parte.

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**HARKESH MANUJA J. (Oral)**

By way of present revision petition, challenge has been made to an order dated 17.01.2017 passed by the learned Additional Civil Judge (Senior Division), Charkhi Dadri, whereby, an application moved on behalf of the petitioner for seeking extension of time, so as to fulfill the condition laid down in the judgment dated 14.11.2014 passed by the court of learned Additional Civil Judge (Senior Division), Charkhi Dadri, issuing succession certificate in his favour, has been dismissed.

2. Petitioner, being the son of deceased - Nanhari widow of Ramji Lal, filed a petition under Section 372 of the Indian Succession Act, 1925 (for short, "1925 Act"), seeking issuance of succession certificate regarding some amount lying in the bank account of deceased-Nanhari, besides her pensionary benefits lying in Defence Pension Disbursing Office (D.P.D.O.). The court of learned Additional Civil Judge (Senior Division), Charkhi Dadri, allowed the prayer made at the instance of petitioner, vide judgment dated 14.11.2014, the operative part of the same is reproduced hereunder:-

*“Thus, present petition under Section 372 of the Indian Succession Act is hereby allowed with no order as to costs. The petitioner is directed to execute a bond with one surety in like amount regarding total amount of Rs.81,163/- for rendering an account of the securities received by him and for indemnifying the person(s) who may otherwise be entitled to the whole or any part of the securities, within a period of one month from today. However, the petitioner being L.R. of deceased-Nanhari Devi is directed to deposit a sum equal shares to the fee payable under Clause 12 Schedule 1 of the Court Fees Act, 1870 i.e. 2% on amount of Rs.81163/- within one month from the date of passing of this order. Accordingly, succession certificate be issued in favour of petitioner as per rules.”*

3. As per the aforesaid direction, the petitioner was to execute a bond with one surety in like amount within a period of one month from the date of passing of the order i.e. 14.11.2014, however, petitioner being working as Labourer could not do the needful as directed by the trial court. Faced with this, the petitioner moved an application before the learned trial court with a prayer for seeking extention of time, however, the same came to be dismissed vide order dated 17.01.2017.

4. It is the said order, which has been impugned by way of present revision petition.

5. Learned counsel for the petitioner submits that petitioner, happens to be a poor man and has been working as Labourer and on the date of passing of order dated 14.11.2014, he was away to Assam being employed as Labourer there and, as such, could not comply with the direction issued under the aforesaid judgment.

6. I have heard learned counsel for the petitioner and have gone

through the paper-book, I find substance in the submissions made on behalf of the petitioner.

7. It appears that a hyper-technical approach has been adopted by the trial court while passing the order dated 17.01.2017 while rejecting the prayer made on behalf of petitioner for seeking extension of time, so as to comply with the direction issued under the judgment dated 14.11.2014.

8. Considering the facts and circumstances of the present case, wherein, petitioner happens to be a poor man fighting for a meager amount left by his deceased mother, therefore, instead of deciding his rights on the basis of hair splitting technicalities, the court was required to adopt pragmatic approach by granting him another chance to comply with judgment dated 14.11.2014, so as to safeguard his substantial rights.

9. Accordingly, in view of facts and circumstances of the present case, the impugned order dated 17.01.2017 is hereby set aside and petitioner is granted another period of six weeks from today to comply with the direction issued by the trial court vide its judgment dated 14.11.2014 regarding execution of bond with one surety in like amount regarding total amount of Rs.81163/- for rendering an account of the securities received by him as directed by the trial court. The petition is allowed in the aforesaid terms.

10. Pending application(s), if any, stand disposed of.

07.12.2022  
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**(HARKESH MANUJA)**  
**JUDGE**

Whether speaking/reasoned: Yes/No  
Whether reportable: Yes/ No