

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

Sr. No.226

CR No.4917 of 2017

Date of Decision: 22.11.2022

Hari Krishan

.... Petitioner

Versus

Punjab State Warehousing Corporation

... Respondent

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. J.P.Rana, Advocate
for the petitioner.

Mr. Karan Singla, Advocate
for the respondent.

TRIBHUVAN DAHIYA, J. (ORAL)

This revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 18.05.2017 (Annexure P-4) passed by lower appellate Court whereby the petitioner/plaintiff's application under Order XXXIII Rule 2 and 3 of Civil Procedure Code, 1908 seeking permission to be treated as indigent person has been dismissed.

2. A perusal of the impugned order shows that the petitioner/plaintiff could not even file an affidavit in support of his application seeking permission to be treated as indigent person. The order also records that he failed to produce any cogent and convincing evidence to prove that he did not own or possess any movable or immovable property of any kind.

3. Learned counsel for the petitioner/plaintiff has referred to another order dated 04.09.2015 (Annexure P-7) passed by lower appellate Court in Civil Case No.INDIGA-77 of 16.10.2014, titled *Hari Krishan*

versus Punjab State Warehousing, wherein the petitioner/plaintiff was treated as indigent person and it was found that he was only in possession of household articles, two shirts and two pants and domestic utensils, all totalling around Rs.1,000/-. Learned counsel has also referred to another order dated 22.09.2016 (Annexure P-8) passed by lower appellate Court in Civil Appeal No.219 dated 09.12.2015, titled *Hari Krishan versus Punjab State Ware Housing Corporation*, wherein also the petitioner/plaintiff was treated as an indigent person on the basis of documents and evidence produced on record. He further contends that along with application before the trial Court supporting affidavit was also filed. The impugned order is, therefore, unsustainable.

4. In view of these facts establishing on record that the petitioner/plaintiff had already been declared indigent in other cases between the same parties, the impugned order dated 18.05.2017 (Annexure P-4) passed by lower appellate Court is set aside and the case is remanded for fresh decision on merits of the application by taking into consideration the relevant facts and the evidence produced as well as the above mentioned two orders, dated 04.09.2015 and 09.12.2015, and following the procedure laid down under Order XXXIII of the CPC.

5. Petition stands disposed of.

(TRIBHUVAN DAHIYA)
JUDGE

22.11.2022
Maninder

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