

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-2129 of 2020 (O&M)
Date of decision: 29.08.2022

M/s ADI Enterprises

..Petitioner

Versus

Chandigarh Educational Trust and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.K.Jain, Advocate, for the petitioner.
Mr. Sumeet Jain, Advocate, for the respondents.

ANIL KSHETARPAL, J(Oral)

The plaintiff's first appeal has been dismissed on account of failure to make good the deficiency in payment of the court fee.

An application filed by the petitioner undertaking to make good the deficiency within a period of two months has been dismissed by the First Appellate Court while observing that the appellant has failed to make good the deficiency despite being granted a last opportunity. The plaintiff has filed a suit for recovery of Rs.2,28,90,476/- which was dismissed by the trial Court on 16.07.2018. The plaintiff's appeal was pending when the impugned order was passed.

This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

The learned counsel representing the petitioner *inter-alia* contends that due to unforeseen financial constraint, the petitioner could not make good the deficiency in payment of the ad valorem court fee at that point of time. He submits that the petitioner is prepared to make good the deficiency within a period of 4 weeks from today.

On the other hand, the learned counsel representing the

respondents contends that the revision petition is not maintainable as instead a Regular Second Appeal should have been filed against the order of dismissal of appeal by the First Appellate Court.

The Regular Second Appeal is maintainable against a decree, if any, passed by the First Appellate Court. The attention of the Court has not been drawn to any such decree. In any case, the Regular Second Appeal is required to be filed before this Court. Without deciding the aforesaid issue, this Court is of the view that the interest of justice shall be served by granting one last opportunity to the petitioner to make good the deficiency in payment of ad valorem court fee along with interest @ 12%, within a period of one month, from today.

If such deficiency is made good, the First Appellate Court shall restore the appeal to its original number and proceed to decide the same on merits.

With these observations, the revision petition is disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

August 29, 2022

nt

**(ANIL KSHETARPAL)
JUDGE**

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>