

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

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CR-670-2020 (O&M)
Date of Decision : 29.07.2022

Gurmeet Singh

...Petitioner

versus

M/s Deva Singh Mukesh Kumar

...Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. R.S.Malik, Advocate for the petitioner.

Mr. Pritam Singh Saini, Advocate for the respondent.

ALKA SARIN, J. (Oral)

The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 30.05.2019 whereby the appeal filed by the defendant-petitioner has been dismissed for want of affixation of court fees.

Learned counsel for the defendant-petitioner would contend that the defendant-petitioner was not in a position to pay the court fees, however, he is now ready to comply with the order dated 30.04.2019. It is further the contention that irreparable loss and injustice would be caused to the defendant-petitioner in case the present petition is not allowed inasmuch as a valuable right of first appeal would be taken away from him.

Per contra, learned counsel for the plaintiff-respondent has vehemently contended that vide order dated 30.04.2019, the defendant-petitioner was granted time to affix the *ad valorem* court fees and was directed to deposit the decretal amount/security. However, both the orders

were not complied with. It is further the contention that order dated 30.04.2019 has attained finality inasmuch as the same has not been challenged till date.

Heard.

In the present case the suit has been filed for recovery of Rs.4,58,200/- along with interest on the basis of *Bahi* entries. The suit was decreed on 06.08.2018. Aggrieved by the said judgment and decree an appeal was preferred by the defendant-petitioner. An application was filed by the plaintiff-respondent for rejection of the appeal on the ground that *ad valorem* court fees had not been affixed. Vide order dated 30.04.2019 time was granted to the defendant-petitioner for affixing the requisite court fees as well as for depositing the decretal amount/security. The defendant-petitioner failed to affix the court fees and an oral request was made for extension of time for affixing the court fees. However, vide the impugned order dated 30.05.2019 the said request was declined and the appeal was rejected on the ground that *ad valorem* court fees was not affixed.

Learned counsel for the defendant-petitioner has now made a statement that the defendant-petitioner is ready to comply with the order dated 30.04.2019.

In view of the above, and to do complete justice between the parties, the impugned order dated 30.05.2019 is set aside and the defendant-petitioner is granted three months time from today to comply with order dated 30.04.2019. It is made clear that in case of non-compliance, the present petition shall be deemed to be dismissed.

Disposed off. Pending applications, if any, also stand disposed off.

July 29, 2022
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO