

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

CR-313-2023 (O&M)

Date of Decision: 18.01.2023

Dharamal (Dharampal)

....Petitioner

Versus

Amar Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Varun Gupta, Advocate
for the petitioner.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for setting aside appellate order dated 02.12.2022 (Annexure P-7) passed by learned District Judge, Narnaul, whereby in the first appeal filed by defendant, an application filed by appellant/defendant under Order 33 Rule 1 CPC, seeking permission to file appeal as an indigent person was dismissed.

2. Succinct facts first, as pleaded in the revision petition.

2.1. Respondent filed a civil suit (Annexure P-1) against petitioner herein for recovery of Rs.7,70,000/- along with interest from the date of agreement dated 29.06.2016. Said suit was decreed by learned trial Court vide judgement and decree dated 30.05.2022 (Annexure P-3).

2.2. Aggrieved against the judgment and decree of trial Court, petitioner filed an appeal (Annexure P-4) along with application dated 07.07.2022 (Annexure P-5) for treating him as an indigent person. However, his application has been dismissed vide order impugned herein.

3. Learned counsel for petitioner submits that learned District Judge overlooked the report of Collector and dismissed the application filed by petitioner in a casual manner.

4. I have heard learned counsel for the petitioner and gone through the case file.

5. Impugned order dated 02.12.2022 (Annexure P-7) is premised, *inter alia*, on the following reasoning:

“xxx

xxx

xxx

Report of the Collector has been received bringing out that Dharampal son of Chhotu Ram, resident of village Jailaf is having residential accommodation consisting of two room, kitchen and toilet etc. and he is not having any land in his name in the village. However, perusal of the judgment itself shows that the stand taken by the appellant-defendant is that he had sold the land in question to somebody else. In that case, he must have received huge amount in respect of said sale amount. Still further, the present plaintiff- respondent had entered into an agreement with the defendant and from him also a sum of 7,70,000/- as earnest money was received by the appellant-defendant which has been ordered to be recovered by the learned Trial Court. Without going into the merit of the present case, it remains on record that appellant-defendant himself had sold the said valuable land. In these circumstances, it does not lie in the mouth of the appellant that he does not have requisite funds to pay the court fee. In that case, it cannot be said that the appellant-defendant is an indigent person. As such, the application under Order 33 Rule 1 read with Section 151 CPC stands dismissed. Now to come upon 2.1.2023 for affixing the court fees on the appeal. In the meanwhile, notice to the respondent-plaintiff be also issued.”

6. A perusal of above leaves no manner of doubt that there is no irregularity either in facts or in law, so as to exercise extraordinary revisional jurisdiction vested with this Court.

7. There is no room for interference in the aforesaid valid reasons recorded by learned First Appellate Court, with which I am in agreement.

8. Dismissed.
9. Pending civil miscellaneous application(s), if any, also stands disposed of.

(ARUN MONGA)
JUDGE

January 18, 2023
ashish

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No