

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(219)

CR No. 369 of 2017

Date of Decision : 22.02.2023

Lala Ram and another

...Petitioners

Versus

Nihal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep Kumar Yadav, Advocate for the petitioners.

Harsimran Singh Sethi J. (Oral)

In the present civil revision petition, the challenge is to the order passed by the trial court dated 30.09.2016 by which, the plaint was rejected due to the non-deposit of the court fees.

Learned counsel for the petitioners argues that vide order dated 19.04.2016, keeping in view the objection raised by the respondents-defendants, the petitioners-plaintiffs were directed to affix the ad valorem court fee as per the market value of the land and the case was adjourned to 19.05.2016 for the payment of court fees. The said order was challenged by the petitioners-plaintiffs by filing Civil Revision No. 6575 of 2016, which was dismissed on 30.09.2016 and without giving any further opportunity to comply with the order dated 19.04.2016, the suit filed by the petitioners-plaintiffs was dismissed by the trial court on the same day i.e. 30.09.2016 on the ground that the ad valorem court fee has not been affixed.

Learned counsel for the petitioners argues that the petitioners-plaintiffs were ready to deposit the court fee after the revision petition filed by them was dismissed hence, they should have been given sufficient time

to deposit the same after the dismissal of the civil revision petition by the trial court but suit was dismissed on 30.09.2016 i.e. on the date when revision petition filed by the petitioners was dismissed by this Court.

Notice of motion in the present civil revision petition was issued and respondents have been served but no one appears on behalf of them hence, they are proceeded ex-parte.

From the facts, it transpires that vide order dated 19.04.2016, the petitioners-plaintiffs were directed to make good the court fee, which order was challenged by them by filing Civil Revision No. 6575 of 2016, which was dismissed on 30.09.2016. After the dismissal of the civil revision, sufficient time should have been given to the petitioners-plaintiffs by the trial court to comply with the direction of the trial court dated 19.04.2016.

Nothing has come on record as to why the suit was dismissed expeditiously for non-depositing of court fee when the civil revision was filed, was only dismissed on 30.09.2016. In the facts and circumstances, the order dated 30.09.2016 passed by the trial court dismissing the suit for non-deposit of the court fee is set-aside. Four weeks' time starting from today is granted to the petitioners-plaintiffs to deposit the court fee. In case, the court fee is deposited by 18.03.2023, the trial court will proceed with the suit in accordance with law, failing which the impugned order will remain in operation.

The present civil revision petition is allowed in above terms.

February 22, 2023

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No