

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

111

CR No.911 of 2023

Date of decision: 09.02.2023

Sukhjit Singh @ Sukhjit Singh Hundal

....Petitioner

Versus

Sham Sunder and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Prashant Bansal, Advocate, for the petitioner.

VIKAS SURI, J. (Oral)

This revision petition under Article 227 of the Constitution of India is directed against the order dated 04.01.2023 (Annexure P-4), whereby the miscellaneous application, seeking permission to file an appeal without payment of court-fee, was dismissed for want compliance of the order granting an opportunity to make good the deficiency in the court-fee.

Learned counsel for the petitioner refers to interlocutory order dated 30.09.2022, whereby the appeal preferred against the judgment and decree dated 25.08.2022 was adjourned to 01.11.2022 for making good the deficiency in court-fee. On 01.11.2022, at request of counsel for the appellant-petitioner, the matter was adjourned to 22.11.2022. As the learned Presiding Officer was to proceed on leave the matter was taken up on 19.11.2022 and it was adjourned to 04.01.2023 and the parties were ordered to be informed accordingly.

Learned counsel for the petitioner submits that on the following date, i.e. 04.01.2023, as the deficiency in court-fee was not made good despite availing two effective opportunities, the application seeking permission to make good the deficiency in court-fee was dismissed for want of compliance of previous order.

Learned counsel would further submit that the petitioner is ready with the Court fee and an opportunity be granted for the said purpose.

Heard learned counsel for the petitioner and with his able assistance, perused the pleadings, interlocutory orders and the documents produced on record.

Keeping in view that the impugned order was passed without issuance of notice to the respondents, the present petition is being disposed of *in limine*.

A perusal of the record would show that the Court had granted time to the appellant-petitioner to make good the deficiency in court-fee while adjourning the matter to 22.11.2022. However, the matter was taken up before the said date, i.e. on 19.11.2022 as the learned Presiding Officer was to proceed on leave and it was adjourned to 04.01.2023 for the same purpose. On 04.01.2023, the application was dismissed as the plaintiff-appellant has not complied with the previous order.

In the backdrop of the peculiar facts and circumstances of the case noticed above, this Court is of the considered view that one opportunity deserves to be granted to the appellant-petitioner to make good the deficiency in court-fee. The settled law is in favour of a decision on merits, instead of avoiding the same under shelter of technicalities.

In view of the above, the impugned order is set aside. Accordingly, the petitioner is afforded an opportunity to make good the deficiency in court-fee. The petitioner would move an appropriate application for taking up the matter, affixing the court-fee and on his doing so, the first Appellate Court would proceed with the appeal, in accordance with law.

The revision petition is disposed of.

(VIKAS SURI)
JUDGE

February 09, 2023

vcgarg

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No