

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1) CR-1491-2023 (O&M)
Date of decision: 21.03.2023

Rajwanti
Versus
...Petitioner

Ram Dia Verma and others
...Respondents

(2) CR-1494-2023 (O&M)
Date of decision: 21.03.2023

Rajwanti
Versus
...Petitioner

Ram Dia Verma and others
...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Vivek Goyal, Advocate for the petitioner.

H.S. MADAAN, J.

By this judgment, I intend to dispose of above mentioned revision petitions having almost identical facts.

2. Briefly stated facts of the case are that appellant Rajwanti aged about 47 years widow and Ravinder Kumar son of late Mehar Singh, had approached the District Court at Kurukshetra for being allowed to file two civil appeals without affixing ad-valorem Court fee citing reason of being indigent persons. Learned Addl. District Judge,

Kurukshetra to whom the appeals had been assigned had called for report from Collector of the district who had accordingly sent such report Ex.A1 intimating that the applicants were having residential plot of 100 sq. yards. The prayer of applicants for being allowed to sue as indigent persons was vehemently opposed by respondent Ram Dia Verma, who submitted that applicants were possessed of sufficient means to pay the requisite Court fee and they were knowingly pleading incapacity to do so. They have engaged a senior counsel of the region and they are capable of paying the Court fee. Respondent further submitted that younger son of appellant Rajwanti had gone to Malaysia about 08 to 10 years back and is settled there.

Learned Addl. District Judge, vide impugned order dated 02.02.2023 dismissed the applications, however, granted one month's time to the applicants/appellants to pay the Court fee.

3. Feeling aggrieved, applicants/appellant Rajwanti has knocked at the door of this Court by way of filing the present revision petition.

4. I have heard learned counsel for the revision petitioner besides perusing the judgments referred to by him and going through the record and I find that there is no merit in the revision petition.

5. Learned Addl. District Judge, Kurukshetra had passed speaking orders dismissing the applications giving reasons for doing so. He has rightly observed that merely for the reason that as per report Ex.A1 sent by the Collector to the effect that the applicants are having

a residential plot/house only that is not to be taken as final word on the subject and the Court is to consider the other facts and circumstances also. The applicants could not bring on record sufficient cogent and convincing evidence to show their inability to affix the ad-valorem Court fee. None of them have come forward to depose in that regard on oath, therefore, leading to drawing of adverse inference against them. Learned Addl. District Judge, has also found it difficult to understand that Rajwanti, aged about 47 years and her son who is co-appellant are not doing any work and are not able to earn anything despite being able bodied persons. This observation cannot be brushed aside lightly.

6. The judgments referred to by learned counsel for the petitioner i.e. **Yogesh Kumar Vs. Begraj** in CR-5274-2010 decided on 23.08.2010, **Phoolwati Vs. Gulzaro Devi** in CR-6520-2016 decided on 28.02.2017, **Tej Kaur Vs. Ishwar Singh** in CR-1480-2022 decided on 14.07.2022 and **M/s Bhushan Tin Box Industries Vs. Central Bank of India & Ors.**, in CR-522 of 1991 decided on 16.09.1992, are distinguishable due to different facts and circumstances of the case as well as the context in which such observations have been made.

There is no need observing that facts of two cases are never identical and observations made by the Court in a particular case considering its facts and circumstances cannot be taken to be a binding precedent irrespective of the case having different facts and circumstances.

7. In my considered view, the orders do not suffer from any illegality or infirmity and do not have any element of perversity or arbitrariness. Therefore, no interference by this Court by exercising revisional jurisdiction is called for. Finding no merit in the revision petitions, the same are dismissed accordingly.

21.03.2023
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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No