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

**CR-2044-2023 (O&M)
Date of Decision: 29.03.2023**

Shakti

...Petitioner

Versus

Ravinder and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Harsh Mehla, Advocate
for petitioner.

ARUN MONGA, J. (ORAL)

Petition herein is for setting aside order passed by Ld. First Appellate Court dated 20.03.2023 (Annexure P-8), whereby petitioner/defendant was directed to pay the entire court fee without deciding her application to file appeal as an indigent person under Order 44 CPC.

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

2.1. Respondent/plaintiffs had filed a suit for possession by way of specific performance against petitioner. The said suit was decreed by Ld. Trial Court vide judgment and decree dated 28.05.2019 (Annexure P-2). Thereafter petitioner had filed an appeal against the said judgment which was accompanied by an application (Annexure P-4) under Order 44 CPC seeking permission to file appeal as an indigent person and seeking remission of *ad valorem* court fee. The said appeal and the application first came up for hearing on 16.07.2019 and Ld. First Appellate court called for the report from Deputy Commissioner regarding indigence of petitioner vide Annexure P-5). On 30.05.2022, when the case came up for hearing, Ld. First Appellate Court observed that despite service to the

Deputy Commissioner, Jhajjar, no one preferred to appear and the matter was fixed for 17.09.2022 for consideration on the above-mentioned application. Thereafter, on 17.09.2022, the District Bar Association had abstained from work and the case was adjourned to 07.12.2022. Till 22.02.2023, the said application was not decided and no order regarding the same had been passed. However, on 22.02.2023, Ld. Appellate Court directed the petitioner to pay *ad valorem* court fee. Thereafter, the case came up for hearing on 20.03.2023 and on the said date vide impugned order, Ld. Appellate Court directed the petitioner to pay court fee by 03.04.2023, as last opportunity.

3. Given the nature of order being passed, there is no necessity to issue notice to respondents, as no serious prejudice would be caused to them. Notice to respondents is thus dispensed with.

4. Having seen the record appended with revision petition, I am of the view that till the time application under Order 44 CPC moved by petitioner/appellant is decided, Ld. First Appellate Court shall not insist on payment of *ad valorem* court fee.

5. Consequently, the revision is disposed of and it is directed that till the application under Order 44 CPC is decided by Ld. First Appellate Court, the impugned order shall be kept in abeyance.

6. Pending civil miscellaneous application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

March 29, 2023
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No