

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

133

CR-3633-2023

Date of Decision : 21.08.2023

Dharampal

.....Petitioner

Versus

Amar Singh

.....Respondent

**CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

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

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**NAMIT KUMAR, J. (ORAL)**

1. The petitioner has filed the instant revision petition under Article 227 of the Constitution of India impugning the orders dated 02.12.2022 and 09.02.2023 (Annexures P-7 and P-8) passed by learned District Judge, Narnaul in Civil Appeal No.102/2022 titled as 'Dharam Pal Vs. Amar Singh' whereby an application filed under Order 33 Rule 1 read with Section 151 of CPC seeking permission to file the appeal as an indigent person has been dismissed and after availing four opportunities to pay the court fees, the appeal has also been dismissed on account of non-filing of court fees.

2. Brief facts of the case, as pleaded in the revision petition, are that the respondent has filed a civil suit against the petitioner for recovery of Rs.7,70,000/- along with interest @ 18% per annum from the date of agreement dated 29.06.2016. The said suit was decreed by learned trial Court vide judgment and decree dated 30.05.2022 against the petitioner for recovery of amount of Rs.7,70,000/- as earnest money

along with interest @ 6% per annum from the date of agreement to sell i.e. 29.06.2016 till actual realization. Aggrieved against the judgment and decree passed by the trial Court, the petitioner has filed an appeal along with an application for treating him as an indigent person. Learned District Judge, Narnaul vide order dated 02.12.2022 has dismissed the application for treating the petitioner as indigent person and thereafter, vide order dated 09.02.2023 has also dismissed the appeal on the ground of non-filing of court fees.

3. I have heard learned counsel for the petitioner and gone through the paperbook.

4. The petitioner had earlier filed revision petition bearing No.CR-313-2023 impugning the order dated 02.12.2022 (Annexure P-7) whereby his application filed under Order 33 Rule 1 read with Section 151 of CPC was dismissed. The said revision petition was dismissed by the Coordinate Bench of this Court vide order dated 18.01.2023 which reads as under :-

*“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*

*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 appellantdefendant 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.”*

5. Thereafter, the petitioner has sought four opportunities for affixation of the court fees but the same was not affixed and consequently, his appeal was dismissed vide order dated 09.02.2023 passed by learned District Judge, Narnaul.

6. Surprisingly, the same very impugned order dated 02.12.2022 (Annexure P-7) which was subject matter of CR No.313 of 2023 has again been challenged by the petitioner in the present revision petition. It is also to be noticed that along with the present petition, the petitioner has attached as many as 08 annexures, however, the most relevant order dated 18.01.2023 whereby his earlier revision petition bearing No. CR No.313 of 2023 was dismissed has not been attached by the petitioner. This act of the petitioner by concealing the order dated 18.01.2023 would amount to non-disclosure of all material facts and the documents. It is a well-settled proposition of law that a person who does not approach the Court with clean hands is not even entitled to hear on the merits of the case. Reference in this regard can be made to the

judgments of the Hon’ble Supreme Court in *Dalip Singh Vs. State of U.P. and others : (2010) 2 SCC 114* and *Amar Singh Vs. Union of India and others : 2011(7) SCC 69*.

7. Further, the same very impugned order has been challenged by the petitioner in the present petition also inspite of the fact that the order dated 09.02.2023 (Annexure P-8) is the consequent order to the order dated 02.12.2022 (Annexure P-7) and in the integrum the petitioner has also availed four opportunities for affixing the court fees.

8. Consequently, the instant revision petition is dismissed with a cost of Rs.15,000/- to be deposited with the Punjab and Haryana High Court Lawyers Welfare Fund within a period of 02 months from the date of passing of this order.

21.08.2023  
Kothiyal

(NAMIT KUMAR)  
JUDGE

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|---------------------------|--------|
| Whether Speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |