

CR-5617-2023 (O&M)

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2023:PHHC:125095

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CR-5617-2023 (O&M)
Date of Decision : 22.09.2023

Gagandeep Kaur

....Petitioner

Versus

Gurpreet Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present : Mr. Prateek Sodhi, Advocate for the petitioner.

NAMIT KUMAR, J. (ORAL)

CM-17593-CII-2023

Prayer in the instant application filed under Section 151 of CPC is for exemption from filing typed/certified copies of Annexures P-1 to P-5.

Allowed as prayed for subject to all just exceptions.

CR-5617-2023

1. The present revision petition has been filed by the petitioner/plaintiff impugning the order dated 31.08.2023 passed by the Court of learned Additional District Judge, Amritsar whereby the appeal filed by the petitioner/plaintiff challenging the judgment and decree dated 21.07.2018 passed by the trial Court, has been dismissed in default qua respondent No.3 for non furnishing the publication fee as ordered vide order dated 24.04.2023.

2. Learned counsel for the petitioner submits that respondents No.1 to 3 were represented by one counsel namely Sh. Rajwinder Singh, Advocate before the trial Court and in an appeal filed by the petitioner respondents No.1 and 2 were represented by the same counsel, however, respondent No.3 was intentionally evading the service of appeal and consequently, vide order dated 24.04.2023 he was ordered to be summoned through publication in the newspaper 'Daily Ashiana' on deposit of publication charges for 29.05.2023 within a period of 15 days. He further submits that due to some communication gap between the petitioner and his counsel, the publication charges could not be deposited and consequently, no notice was published in the newspaper and although again opportunity was granted on 01.08.2023, the petitioner could not deposit the said charges and vide impugned order dated 31.08.2023, the appeal qua respondent No.3 has been dismissed in default for non furnishing the publication fee. He submits that the petitioner would greatly prejudice if the case is not decided on merits even qua respondent No.3. Therefore, he prays for setting aside of order dated 31.08.2023 and seeks one more opportunity for depositing the publication charges.

3. I have heard learned counsel for the petitioner and perused the relevant documents.

4. Keeping in view the facts and circumstance of the present case and keeping in view the interest of the parties and in the interest of justice, the order dated 31.08.2023 dismissing the appeal qua respondent

No.3 in default for non furnishing of publication charges is set aside and another opportunity is granted to the petitioner to deposit the publication charges before the next date of hearing fixed before the Trial Court i.e. 11.10.2023, subject to payment of Rs.10,000/- as costs to be paid with the P.G.I. Poor Patient Welfare Fund, Chandigarh within a period of two weeks from today and copy of receipt of the same shall be produced before the lower Appellate Court on the next date of hearing.

5. Keeping in view the relief claimed in the present petition, this Court is not inclined to issue notice to the respondents to avoid unnecessary expenditure which they will incur for their appearance and to engage a counsel.

6. Needless to say that the respondents would be at liberty for recalling of this order by moving an appropriate application, if so aggrieved.

22.09.2023
Kothiyal

(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No