

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(111)

CR-5-2023

Date of Decision : January 06, 2023

Sat Narain Sharma and another

.. Petitioners

Versus

Union Bank of India and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Simar Bedi, Advocate, for the petitioners.

Mr. Gaurav Goel, Advocate, for the respondents-Bank.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present civil revision petition, the order dated 18.07.2022 is under challenge by which, the application under Order 33 Rule 1 to 4 CPC filed by the petitioners for permission to file the recovery suit as indigent person has been dismissed.

Learned counsel for the petitioners submits that the order dated 18.07.2022 has been passed on the basis of the report of the Collector, Panipat, a copy of which has been appended with this petition as Annexure P-1 wherein, a fact has been mentioned that petitioners' financial condition is sound but without giving any detail of supporting the said averment, hence, once the basis of recording the finding of the sound financial position of petitioner No.1 was missing in the report, the said report could

not have been taken into consideration by the Courts below to reject the application filed by the petitioners.

I have gone through the record of the Collector.

Though it is mentioned in the report of the Collector, copy of which is appended as Annexure P-1 that petitioner No.1's financial condition is found to be sound but the details/basis of the said finding is missing from the said report. Once the report is to be made qua the financial condition of the petitioners, the report needed to be supported by the evidence, which fact is missing in the report Annexure P-1, hence, the same could not have been taken into account while dismissing the application filed by the petitioners.

Even otherwise, petitioner No. 1 has filed the present petition along with the firm namely Green Gold Overseas as plaintiff No.2. There are two plaintiffs in the suit, hence, it is the duty of the Court even to go through the financial aspect of the said firm as well as that of petitioner No.1 before deciding the application filed by plaintiff No.1 under Order 33 Rule 1 to 4 of the CPC. Nothing has come on record that financial position of plaintiff No.2 has been ascertained before passing the impugned order dated 18.07.2022.

Keeping in view the above, the order dated 18.07.2022 is set aside and the case is remanded back to the Civil Judge (Sr. Division), Panipat to pass a fresh order on the application filed by the petitioners by ascertaining not only the financial status of plaintiff No.1 but also of plaintiff No.2 before passing appropriate orders on the plea of the plaintiffs to allow them to file the suit as indigent persons.

The present civil revision petition is allowed in above terms.

January 06, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No