

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

131

CR-7057 of 2023
Date of Decision: 23.11.2023

Sandeep Kumar

....Petitioner

Versus

Sarav Haryana Gramin Bank

....Respondent

CORAM:HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Ms. Manisha Nehra, Advocate for the petitioner.

SANJAY VASHISTH, J.(Oral)

1. Present revision petition has been filed by the defendant-Sandeep Kumar, challenging the order dated 02.11.2023 (Annexure P-7), passed by learned District Judge, Hisar in Civil Appeal No.213 of 2023, titled as 'Sandeep Kumar, Vs. Sarav Haryana Gramin Bank etc.' bearing CNR No.HRHS010118592023, wherein appeal filed by the petitioner has been dismissed for non-compliance and want of requisite ad-valorem Court fee.

2. Learned counsel for the petitioner submits that respondents-Sarav Haryana Gramin Bank filed a civil suit for recovery against petitioner/defendant No.1-Sandeep Kumar and defendant No.2-Wazir Singh, who was proceeded against ex parte. He further submits that the suit was filed for recovery of an amount of

Rs.5,25,920.23/- alongwith interest @ 13.50 % per annum from the date of filing of the suit till its actual realization and same was decreed by the Court of learned Civil judge (Junior Division), Hansi (learned trial Court) vide judgment and decree dated 02.08.2023.

3. Thereupon, defendant No.1 filed an appeal before the Court of learned District Judge, Hisar on 01.09.2023 alongwith two applications i.e. for seeking exemption from filing the stamps (Court fee) and one under Order XLI Rule 5 of CPC. In the application, applicant averred that he has already deposited Court fee amount of Rs.32,100/- through e-challan, bearing DDO Code-0561 and GRN No.0106611505 dated 01.09.2023, however, due to a technical reason, stamp (Court fee) could not be issued.

While filing the appeal, non-availability of the stamps (Court fee) was also pointed out to the Appellate Court and taking note of the grounds mentioned in the application, same was allowed vide order dated 01.09.2023 and filing of appeal without affixing the Court fee was permitted to the appellant (petitioner herein), however, direction was issued to affix the ad-valorem Court fee on the next date of hearing i.e. 19.09.2023. The appeal was also registered by the Appellate Court.

On 19.09.2023, again Court fee could not be affixed and on request, time was granted to make the Court fee good by 05.10.2023. Again, time was extended upto 02.11.2023, however, on

02.11.2023, no further time was granted and appeal was dismissed for non-compliance and for want of requisite ad valorem Court fee.

4. Learned counsel for the petitioner submits that the circumstances leading to non-compliance were beyond the control of the petitioner and even the requisite amount of Court fee was deposited in the Government Treasury through e-Challan on 01.09.2023 itself vide GRN No.0106611505, indicating his bonafide intention, a copy of which has also been annexed with the present revision petition.

5. Learned counsel for the petitioner submits that now the Court fee (stamp papers) are available with the stamp vendors. Therefore, if one more opportunity is granted, the requisite Court fee would be made good; and the petitioner could avail his right of statutory appeal before the learned Appellate Court.

6. For the purpose of considering the prayer made in the present revision petition, this Court does not feel any necessity to call for other side, as the same would amount to sheer wastage of time.

Since, petitioner wishes to avail his statutory right of appeal, in case of allowing the present revision petition, no substantial right of the respondent is going to be effected adversely.

7. Taking note of the totality of the circumstances explained by learned counsel for the petitioner and after going through the documents appended with the petition, **present petition is allowed** and the order dated 02.11.2023 is set aside, to the extent of dismissing

the appeal on account of non compliance of the direction passed by the Appellate Court.

Learned counsel for the petitioner is directed to approach the learned Appellate Court with requisite application and the stamp papers for revival of the appeal on or before 18.12.2023. On doing so, learned Appellate Court would grant permission to affix the ad valorem Court fee to make the deficiency in Court fee good and would proceed in accordance with law to decide the appeal.

Disposed of.

November 23, 2023
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[SANJAY VASHISTH]
JUDGE

Whether speaking/reasoned
Whether reportable?

yes/no
yes/no