

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3648-2018 (O&M)
Date of Decision: April 02, 2024

Gurpal Singh
...Petitioner

Versus

Rajwant Kaur
...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Amit Arora, Advocate
for the petitioner.

Mr.Ranjit Sharma, Advocate
for the respondent.

ARCHANA PURI, J.

The petitioner has invoked the jurisdiction of this Court under Article 227 of the Constitution of India, for setting aside of the order dated 22.02.2018 passed by learned Addl. District Judge, vide which, the appeal filed by the petitioner against the judgment and decree dated 02.12.2017 was dismissed, for not making the deficiency in the Court fee good, within the time allowed.

Learned counsel for the parties heard.

The material facts, as culled out, from the paperbook, are as follows:-

That, initially, Rajwant Kaur-respondent/plaintiff had filed a suit against Gurpal Singh-petitioner/defendant, for seeking specific performance

on the basis of an agreement to sell dated 16.01.2014 of the land measuring 9 Kanals 8 Marlas, as detailed in the headnote of the judgment, copy whereof is Annexure P-1. The suit was decreed for recovery of Rs.21 lakh, vide judgment dated 02.12.2017. Feeling aggrieved, the petitioner-defendant had filed an appeal bearing Case No.27/22.1.2018, copy whereof is Annexure P-2. At the time of entertainment of the appeal on 23.01.2018, it was observed by learned Addl. District Judge that along with the appeal, an application for granting permission to make up deficiency in the Court fee was filed and on account of reason assigned, the deficiency was ordered to be made good on or before 09.02.2018. However, on 09.02.2018, an application was again filed for seeking permission to make the deficiency in the Court fee and the same was allowed and the case was adjourned for making good of the deficiency on or before 22.02.2018. On 22.02.2018, none was present and the deficiency of Court fee was not made good and the case was dismissed.

Feeling aggrieved, the petitioner has filed the present revision petition.

The appeal was filed to challenge the money decree of Rs.21 lakh, passed by learned trial Court, in the suit for specific performance, sought on the basis of the agreement to sell dated 16.01.2014. Perusal of the zimini orders, which have been placed on record, reveals about three opportunities to have been granted and from the impugned order, it is evident that none had made appearance and as a result thereof, no further opportunity was granted.

However, it is always in the interest of justice, the parties

should be facilitated to contest the case on merits.

In the given circumstances, considering the aforesaid, the revision petition is hereby allowed and the appeal bearing Case No.27/22.1.2018 is hereby ordered to be revived, subject to deposit of Rs.10,000/- as costs, in the Poor Patients’ Fund of PGIMER, Chandigarh, within a period of two weeks, from today onwards. Subject to the deposit of aforesaid amount, the parties to the lis, shall make appearance before lower Appellate Court on 01.05.2024 and on appearance on the parties, on the date fix, the Court concerned, shall facilitate for making good of the deficiency of Court fee, within a period of ten days thereafter.

April 02, 2024
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No