

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****209****RSA-2451-1995 (O&M)****Date of Decision : 14.10.2024**

Market Committee, Nabha and Another

....Appellants

**VERSUS**

Dharam Pal

....Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Charan Jit Sharma, Advocate for the appellants.

Mr. K.K. Saini, Advocate for the respondent.

**ALKA SARIN, J. (Oral)**

1. Present appeal has been preferred by the defendant-appellants challenging the judgment and decree dated 29.03.1995 passed by the First Appellate Court whereby the appeal filed by the defendant-appellants against the judgment and decree dated 20.04.1990 passed by the Trial Court was dismissed only on the ground that the same has not been validly filed inasmuch as certified copy of the judgment and decree passed by the Trial Court has not been appended with the appeal.

2. Learned counsel for the defendant-appellants would contend that copy of the judgment and decree passed by the Trial Court was subsequently filed alongwith an application on 15.03.1995 stating therein that there was a bonafide mistake on the part of the Clerk of the Market Committee that he did not hand over a copy of the same to the lawyer. However, since no affidavit of the Clerk had been filed alongwith the application, the same was also dismissed and resultantly the appeal was also

dismissed. Learned counsel for the defendant-appellants would further contend that the appeal has been dismissed totally on hyper-technical grounds without deciding the same on merits.

3. *Per contra* learned counsel for the plaintiff-respondent would contend that it was a mandatory requirement of law that certified copy ought to have been filed.

4. Heard.

5. In the present case the appeal was filed without appending the certified copy of the judgment and decree. Though the same was subsequently filed with an application on 15.03.1995, however, the application was also dismissed by the First Appellate Court holding that the same was not supported by an affidavit of the Clerk concerned. The First Appellate Court should have avoided such a hyper-technical approach inasmuch as valuable right of the defendant-appellants stands defeated on mere technicalities.

6. In view of the above, the present appeal is allowed and the matter is remanded to the successor Court of the First Appellate Court for decision afresh in accordance with the law. The parties are directed to appear before the Court concerned on **04.11.2024** at **10.00 am**. Pending applications, if any, also stand disposed off.

( ALKA SARIN )  
JUDGE

14.10.2024  
jk

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO