

2024:PHHC:037885

**324 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR-4574-2023 (O&M)

Date of decision: 15.03.2024

Murari @ Murari Lal

....Petitioner

Versus

Shyam Sunder

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.Kartik Khicher, Advocate for
Mr. Baljeet Beniwal, Advocate for the petitioner

ANIL KSHETARPAL, J (Oral)

1. Though this matter has been taken up out of its turn, however, as per the office report, the notice issued to the respondent has been received back served and he remains unrepresented. The matter in issue in the present revision petition is minor and not very significant. The petitioner has filed the first appeal against the decree for the specific performance of the agreement to sell. He was required to affix the ad valorem court fee of Rs.84,400/-. He filed an application for extending the period granted for the affixation of the aforesaid fee, however, the court has refused to grant extension while rejecting the appeal.

2. Heard the learned counsel representing the petitioner at length and with their able assistance perused the paperbook.

3. In the considered opinion of this Court, before rejecting the memorandum of appeal, the court was required to grant an opportunity to the appellant to deposit the court fee. The First Appellate Court is the last court for the appreciation of facts and evidence, alongwith law. It is a significant statutory right provided to the party to get a judicial review

of the judgment passed by the court below i.e the trial court. In these circumstances, efforts shall always be made to decide the first appeals on merits rather than dismissing them in defaults or on technical ground.

4. Learned counsel representing the petitioner submits that he is prepared to deposit the amount of the deficient court fee by 31.03.2024.

5. Keeping in view the aforesaid facts, the impugned order dated 07.07.2022 is set aside subject to the condition that the appellant shall deposit the ad valorem court fee on or before 31.03.2024. If the court fee is deposited, the first appeal shall stand restored to its original number. The respondent shall have liberty to file an application for recall as the matter has been taken up out of its turn.

6. Disposed of accordingly.

7. All the pending miscellaneous applications, if any, are also disposed of.

15.03.2024

rekha

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE