

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

126

2024:PHHC:030233

CR-6838-2023

Date of decision: 04.03.2024

PUSHPA DEVI

..Petitioner

Versus

SHAKUNTALA DEVI AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arun Gupta, Advocate
for Mr. Arjun Atri, Advocate for the petitioner.

Mr. Ashish Tewatia, Advocate
for Mr. M.S. Tewatia, Advocate for respondents.

ANIL KSHETARPAL, J(Oral)

1. The petitioner's application for permitting her to file the appeal as indigent person has been dismissed by the First Appellate Court. This revision petition has been preferred to assail its correctness.
2. The learned counsel representing the petitioner contends that the petitioner is a very poor lady having no source of income. She has OPH card and residing on the mercy of the government. She is in possession of a residential house consisting of two rooms, constructed on 5 marlas plot, however, she has no means to pay the Court fee.
3. The First Appellate Court dismissed the application on the ground that as per the report of Tehsildar, she is the owner of a house having area of 5 marlas, which is worth Rs.15,00,000/-. Her husband is also an auto-rickshaw driver.
4. This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.
5. The learned counsel representing the petitioner submits that the house in question is subject matter of the suit filed by the respondents, which

CR-6838-2023

has been decreed. He submits that apart from the aforesaid property, she has no other means.

6. On the other hand, the learned counsel representing the respondents submits that the petitioner has received Rs.7,10,000/- as earnest money.

7. This Court has considered the submissions of the learned counsel representing the parties.

8. The petitioner while contesting the suit has asserted that she has taken a loan of Rs.4,00,000/- from the respondent. Still further, it is evident that except the suit property, the petitioner does not possess any other immovable property. Her husband is also driving an auto-rickshaw.

9. Keeping in view the aforesaid facts, the First Appellate Court has erred in refusing to take a holistic view of the matter.

10. In such circumstances, the Courts are expected to take a pragmatic view.

11. Keeping in view the aforesaid facts, the revision petition is allowed. The impugned orders passed by the First Appellate Court on 10.08.2022 and 18.07.2023, are set aside.

12. The petitioner is permitted to file the appeal in *forma pauperis*.

13. The First Appellate Court is directed to decide the appeal on merits.

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

March 04th, 2024

(ANIL KSHETARPAL)
JUDGE

Ay

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No