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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-2883-2022(O&M)

Date of decision : 23.01.2026

Vijay Kumar (since deceased) through his LRs

... Petitioner

Versus

Shankar Dass

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Yash Paul Khullar, Advocate
for the petitioner.

Mr.Johan Kumar, Advocate
for the respondent.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 29.03.2022 (Annexure P-5) as well as impugned order dated 17.05.2022 (Annexure P-6) passed by the Civil Judge (Jr.Div.), Palwal.

2. Learned counsel for the petitioner has submitted that in the present case, the suit for mandatory injunction filed by the respondent (plaintiff) was decreed on 31.03.2018 and in paragraph 34 of the said judgment, the following direction was given:-

“34. As a sequel to aforesaid discussion, the present suit is hereby decreed with costs. Since, the plaintiff has sought possession of suit



property by way of mandatory injunction, so the plaintiff is directed to deposit the requisite court fee within one month whereupon the defendant shall hand over the vacant possession of the suit property to the plaintiff within the next one month. In case the plaintiff fails to deposit the requisite court fee within the prescribed time then this suit shall be deemed to be dismissed. Decree sheet be drawn accordingly. File be consigned to records after due compliance.

Pronounced in open court.

Dt.31.03.2018”

It is submitted that the requisite court fee within one month was to be paid and the requisite court fee was not paid. It is further submitted that vide order dated 29.03.2022, the trial Court passed another order in which it was stated that the amount of Rs.65,865/- be deposited by the decree holder within a period of one month only and in case needful is not done within the said time, then, the suit would be deemed to have been dismissed. The relevant portion of the order dated 29.03.2022 is reproduced hereinbelow:-

“14. So, before parting with this order, the Court would like to throw light on What would be the exact Court fees payable by the plaintiff in the present matter. During the course of arguments the plaintiff, earlier refuting but later on admits the property to be taken as 89 Sq. Yards (for the purpose of calculation of court fees). So, the calculation would be

Area of Property x Collector rate (2010-2011)

89 x Rs. 13000/- = 11,57,000/-

which after thorough calculation, ultimately comes to Rs. 65,865/-. So, now by invoking Section 148 of CPC read with Section 151 of CPC, the application for depositing the requisite Court fees stands allowed as mentioned above subject to rider of depositing the requisite Court fees (as mentioned above) within a period of one month only (on or before the expiry of one month from the date of order). It is made clear that if the

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needful has not been done by the DH/applicant within the time prescribed above then the suit would be deemed to be dismissed and no further opportunity would be granted to do the needful.

Now, to come upon 10.05.2022 for depositing the court fees.

*Gulshan Verma,
Civil Judge(Jr. Divn.)
UID No.HR-0520
Palwal, 29.03.2022*

Note: All seven (7) pages of this order have been dictated, checked and signed by me.

*Gulshan Verma,
Civil Judge(Jr. Divn.)
UID No.HR-0520
Palwal, 29.03.2022”*

It is submitted that the said amount was not deposited within one month from 29.03.2022 and thus, the suit was required to be dismissed in view of the order dated 29.03.2022, which had attained finality.

3. Learned counsel for the respondent, on the other hand, has submitted that in the present case, against the judgment dated 31.03.2018, the petitioner has already filed an appeal and said appeal is pending. It is submitted that the respondent in pursuance of the judgment and decree dated 31.03.2018 had deposited the court fee of an amount of Rs.11,800/- which as per him was the requisite court fee, within the period of one month. It is further submitted that however, the said amount was as per the order dated 29.03.2022 not the requisite amount and the trial Court had observed that the amount of Rs.65,865/- was the requisite amount and thus, had granted time to deposit the same within a period of one month. It is submitted that since the case was adjourned to 10.05.2022, thus, the said amount was deposited on 10.05.2022.



4. During the course of arguments, a very fair stand has been taken on behalf of the learned counsel for the petitioner as well as learned counsel for the respondent and it has been submitted that since the appeal against the impugned judgment is pending, thus, the petitioner and the respondent be permitted to raise the plea on the abvoesaid aspect of the court fee at the time of final adjudication of the appeal. It is submitted that it would be in the best interest of both the parties in case the Ist Appellate Court decides the said aspect along with other issues at the time of final adjudication.

5. Keeping in view the above said facts and circumstances and the fair stand taken on behalf of the petitioner as well as the respondent, the present revision petition is disposed of by granting liberty to both the parties to raise all pleas as are available to them on the aspect of court fee before the Ist Appellate Court.

6. It is made clear that this Court has not opined on the merits of the case and the pleas so raised would be decided independently by the Ist Appellate Court.

(VIKAS BAHL)
JUDGE

January 23, 2026.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No