

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

C.R. No.1482 of 1988

Date of Decision : 31.10.2007

Manmohan Singh

.....Petitioner

Versus

Ramji Lal & others.

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr. G.S. Bhatia, advocate
for the petitioner.

Mr.Dheeraj Narula, Advocate
for the respondents.

VINOD K. SHARMA, J. (ORAL)

The present revision petition has been filed against the order dated 8.6.1981 alleged to have been passed by the learned trial Court modifying the judgment and decree, however, no such order has been placed on record. There is no necessity to consider the same. The revision is also directed against the order dated 2.6.1987 passed by the learned Addl. District Judge, Ferozepur vide which application moved by the respondent under Section 151 read with Section 141 of the Code of Civil Procedure was disposed of.

It was observed that the application moved by the petitioner for revival of the appeal was dismissed on 21.1.1984. In the application clarification was sought as to whether the Court fee is to be paid at the jurisdictional value of Rs. 500/-(Rupees five hundred only) or Rs. 500/- (Rupees five hundred only) as per the judgment and decree passed by the learned Courts below. The said Court fee was directed to be paid by

25.7.1981. The application was opposed by the petitioner on the plea that the said application was not maintainable on the plea that the order dated 5.11.1985 was passed on the directions of the High Court and, therefore, the applicants were required to move the High Court for correction, if need be. It was also claimed that as the Court was not hearing the appeal against the order and, therefore, it had no jurisdiction to entertain and try the application moved by the respondent herein.

The learned Addl. District Judge, Ferozepur was pleased to notice that in the judgment passed by the learned trial Court it was clearly mentioned that the plaintiff was required to value their suit for the purposes of Court fee at Rs. 500/- (Rupees five hundred only) and the same was directed to be paid before 25.7.1981. It was further observed that the word “of” did not appear in the judgment and the decree and, therefore, held that the word “of” be read as “at” before word Rs. 500/- (Rupees five hundred only) in the order dated 5.11.1985 i.e. the judgment passed by the learned Addl. District Judge, Ferozepur on an application moved by the petitioner for revival of appeal. The observations being contrary to the judgment and decree passed by the learned trial Court was rightly ordered to be corrected by the learned Addl. District Judge.

The learned counsel for the petitioner contends that the impugned order cannot be sustained as in the judgment and decree passed by the learned trial Court the respondent was directed to pay court fee of Rs. 500/- (Rupees five hundred only) . However, subsequently without notice to the appellant the judgment and decree was modified though in the meantime the plaintiff had withdrawn his appeal. It was claimed that prejudice has been caused to petitioner by way of this amendment. This plea of petitioner

prima facie cannot be accepted. In case, the petitioner was aggrieved by the correction of the judgment and decree passed by the learned trial Court in that event the petitioner was bound to challenge the said order, even though reference was made to said order in this revision petition but no order has been produced. In the present appeal the challenge is only to the order dated 2.6.1987 passed by the learned Addl. District Judge, wherein a typographical error in the order has been ordered to be corrected, in view of the judgment and decree of learned trial Court.

As in the impugned order, the learned Addl. District Judge has merely corrected the typographical error no ground is made out to interfere in this revision petition.

Dismissed.

31.10.2007
'sp'

(VINOD K. SHARMA)
JUDGE