

(1993) 09 P&H CK 0019

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 822 of 1991

Sewa Singh

APPELLANT

Vs

Punjab National Bank and
Others

RESPONDENT

Date of Decision: Sept. 24, 1993

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Section 115, 149

Citation: (1994) 107 PLR 70

Hon'ble Judges: G.C. Garg, J

Bench: Single Bench

Advocate: Jaswant Jain, for the Appellant; H.N. Mehtani, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

G.C. Garg, J.

Petitioner seeks revision of the order dated November 20, 1990 passed by the learned District Judge, Karnal whereby the appeal preferred by the petitioner was dismissed for non-payment of court fee.

2. Respondent-bank filed a suit against the petitioner and others for the recovery of money. The suit was decreed on August 12, 1988. The defendant-petitioner preferred an appeal. Along with the appeal, an application was moved by him to entertain the appeal on behalf of the petitioner as an indigent person. The petitioner was held to be not an indigent person by order dated September 18, 1990. He was consequently permitted to make up the deficiency in the court fee on or before October 27, 1990. The petitioner filed a revision petition against the order declining his prayer to be declared as an indigent person. Consequently, the time to make up deficiency in court fee was further extended. But it seems that the order passed in the revision petition did not reach the trial Court in time and the petitioner

made another application before the appellate Court for granting further time for the purpose. Learned appellate Court extended the time upto November 20, 1990 but the deficiency in the court fee was still not made good. Consequently, by the order under revision, the petitioner"s appeal was dismissed for non-payment of the requisite court fee.

3. Learned counsel for the petitioner contended that the petitioner is ready and willing to make up the deficiency in court fee and the appeal in the facts of the present case deserves to be decided on merits after the court fee is made good. In the circumstances, it was prayed that at least two weeks" time be granted to the petitioner for the purpose.

4. After hearing learned counsel for the parties, I find that there is hardly any justification to grant further time. But in spite of that being so, having regard to the fact that as far as possible the controversy between the parties should be allowed to be settled on merits and that no injustice is likely to be caused to any of the parties, if the petitioner is permitted to make up the deficiency in court fee. I therefore, in the peculiar facts of the present case, accept the revision, quash the order under revision and permit the petitioner to make up the deficiency in Court on or before October 8, 1993 subject to payment of Rs. 300/- as costs. If the deficiency in court fee is made good, the appeal shall be entertained and decided on merits in accordance with law but in case the petitioner fails to do so within the time aforesaid this revision shall be deemed to have been dismissed.