

(1999) 02 AHC CK 0056

In the Allahabad High Court

Case No : Civil Miscellaneous Application No... of 1998 in First Appeal No. 89 of 1998

Bhikkan

APPELLANT

Vs

Uttar Pradesh Awas Vikas Parishad and another

RESPONDENT

Date of Decision : 08-02-1999

Acts Referred:

Allahabad High Court Rules, 1952 — Rule 7
Civil Procedure Code, 1908 (CPC) — Section 149

Citation : (1999) 2 AWC 942 : (1999) 2 CivCC 383

Hon'ble Judges : D.S. Sinha, J;A.K. Yog, J

Bench : Division Bench

Advocate : S.K. Lakhtakia, for the Appellant; Pankaj Mittal, for the Respondent

Judgement

D.S. Sinha, J.—Heard Sri S. K. Lakhtakia, learned counsel appearing for the appellant and Shri Pankaj Mittal, learned counsel representing the respondent No. 1.

2. Instant appeal was presented on April 17. 1998, along with an application praying for six months" time for paying the required court-fees.

3. According to the report of the Stamp Reporter dated April 15. 1998, the court-fees paid on the appeal is deficient by a sum of Rs. 39.327.50 paise.

4. Obviously, more than six months, to be precise, about ten months, have elapsed. But the deficiency in court-fees has not been made good.

5. The only ground for not paying the court-fees and praying for further time which is discernible from the averments made in paragraph 1 of the application is that :

"the appellant is a poor man and has not been able to raise funds for paying the court-fees which is considerably very high."

6. The ground is wholly vague, and does not disclose any exceptional

circumstance on account of which the appellant was or is unable to pay the court-fees. Material facts and particular in support of the ground are sadly lacking.

7. In its decision rendered In the case of S. Wajid Ali Vs. Mt. Isar Bano Urf Isar Fatma, , a Full Bench of this Court has categorically ruled that poverty or inability to pay full court-fee at the time of filing the appeal in itself is not a sufficient ground which would entitle the Court to exercise the discretion vested in it. u/s 149 of the Code of Civil Procedure. 1908, which clothes the Court with the power to grant permission for paying the deficient court-fees, permission cannot be granted unless there are exceptional circumstances like acute famine, etc. No exceptional circumstance has been stated before the Court.

8. Thus, it would not be appropriate for the Court to exercise any discretion u/s 149 of the Code of Civil Procedure.

9. There being deficiency in court-fees to the tune of Rs. 39.327.50 paise, the same having not been made good despite the lapse of about ten months, and no special circumstance having been placed before the Court for grant of further time, the memo of appeal is directed to be returned to the appellant as envisaged under Rule 7 of Chapter XI of the Rules of Court, 1952.