

(1999) 02 AHC CK 0077
In the Allahabad High Court
Case No : First Appeal No. 91 of 1998

Sukki and Others

APPELLANT

Vs

U.P.Avas Vikas Parishad,Lucknow

RESPONDENT

Date of Decision : 08-02-1999

Acts Referred:

Allahabad High Court Rules, 1952 — Chapter 11 Rule 7
Civil Procedure Code, 1908 (CPC) — Section 149

Citation : (1999) 02 AHC CK 0077

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

Final Decision : Allowed

Judgement

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

2. Instant appeal was presented on 17th April, 1998 alongwith an application praying for six months" time for paying the required Courtfees.

3. According to the report of the Stamp Reporter dated 15th April, 1998, the Courtfees paid on the appeal is deficient by a sum of Rs. 56,802.50 Paise.

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

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

?the appellants area poor man and has not been enable 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 appellants were or are unable to pay the Courtfees. Material facts and particular in support of the ground are sadly lacking.

7. In its decision rendered in the case of S. Wajid AH v. Mt. Isar Bano Urf Isar Fatma, AIR 1951 All 64, 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. Under Section 149 of the Code of Civil Procedure, 1908, which clothes the Court with the power to grant permission for paying the deficient Courtfees 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 under Section 149 of the Code of Civil Procedure.

9. There being deficiency in Courtfees to the tune of Rs. 56,802.50 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.