

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO.6250 OF 2009  
(Arising out of S.L.P. (C) No.19789 of 2008)

Gurmeet Singh Grewal

...Appellant(s)

Versus

J.P. Jethera

...Respondent(s)

O R D E R

Leave granted.

This appeal is directed against order dated 24.3.2008 passed by the learned Single Judge of Delhi High Court in I.A. No. 3575/2008 in C.S. (OS) No. 1330/2006 whereby he dismissed the application filed by the plaintiff-appellant for enlargement of time to enable him to sign the plaint, and order dated 16.7.2008 passed by the Division Bench in FAO (OS) No. 302/2008 whereby the appeal preferred against the order of the learned Single Judge has been dismissed.

A perusal of the record shows that on 26<sup>th</sup> June, 2006 when the plaint was presented, Registry of the High Court pointed out three defects, i.e., deficiency in court fee, plaint and verification not signed and original documents not filed. On the next date, i.e., 4<sup>th</sup> July, 2006, the case could not be taken up because the learned Judge was on leave. On 11<sup>th</sup> July, 2006, the suit was directed to be registered, notice was issued to the

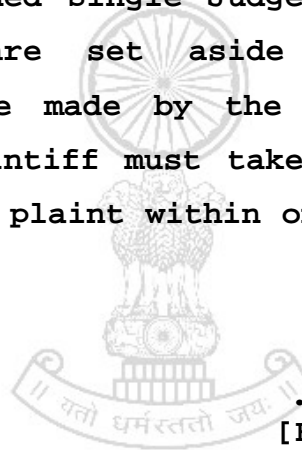
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defendant and an interim order directing the parties to maintain status quo was passed. On 10<sup>th</sup> January, 2007, the plaintiff-appellant was directed to remove the defects with a stipulation that if he fails to do so, an adverse order may be passed. Thereafter, the plaintiff-appellant removed two defects, but the defect that the plaint was not signed and verified was not removed. In the meanwhile, I.A. No. 1574/2007 was filed on behalf of the defendant-respondent under Order VII Rule 11 C.P.C. for rejection of the plaint. Counsel for the appellant accepted notice of the application on 13<sup>th</sup> February, 2007 and the case was adjourned to 17.5.2007. It was again adjourned on three different dates. On 18.1.2008, counsel appearing on behalf of the defendant-respondent raised an objection to the maintainability of the suit on the ground of non-removal of the defect. Thereafter, an application was filed on behalf of the plaintiff-appellant under Section 148 C.P.C. for enlargement of the time. The same was dismissed by the learned Single Judge on the ground that there was no justification to entertain the prayer for enlargement of time because the plaintiff failed to remove the defect for more than 14 months. The Division Bench of the High Court dismissed the appeal preferred by the plaintiff-appellant and confirmed the order passed by the learned Single Judge. Hence, this appeal by special leave.

Having heard learned counsel for the parties and perused the records, we are of the view that the learned Single Judge was not justified in refusing to extend the time and the Division Bench committed an error by confirming that order. Undisputedly, even though the

Registry of the High Court pointed out defects at the threshold, the suit was not only registered but notice issued to the defendant-respondent and an interim order was also passed. Thereafter, the case remained pending for more than one year and six months, during which period several proceedings were drawn. This being the position, we are of the view that the learned Single Judge should have allowed the application filed on behalf of the plaintiff-appellant for enlargement of time and the Division Bench should not have approved dismissal of the application filed under Section 148 C.P.C.

Accordingly, the appeal is allowed, impugned orders passed by the learned Single Judge and Division Bench of the High Court are set aside and the prayer for enlargement of time made by the plaintiff-appellant is accepted. The plaintiff must take steps for signing and verification of the plaint within one week from today. No costs.



.....J.  
[B.N. AGRAWAL]

JUDGMENT

.....J.  
[G.S. SINGHVI]

New Delhi,  
September 14, 2009.