

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR 2947 of 2013

Date of Decision: April 27, 2015

Raj Bala and ors.

.....Petitioners

Vs.

Lachhman and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.Yogesh Saini, Advocate
for the petitioners.

Mr. P.S. Saini, Advocate.

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M.M.S. BEDI, J. (ORAL)

Roshan Lal had filed a suit for specific performance of an agreement of sale dated July 14, 1999 against the defendant-respondents. Unfortunately, he died on October 14, 2003, when the case was fixed for his evidence. LRs of Roshan Lal were not impleaded by his family members or his Advocate. No application was even filed on behalf of the opposite party. The petitioners moved two applications simultaneously, one for restoration of the suit, which was dismissed in default and second for bringing on record the LRs of deceased Roshan Lal. Both the applications have been dismissed

by the trial Court on the ground that no satisfactory proof has been placed on record to establish that the date of hearing was not known to the plaintiff or his heirs. On appeal filed against the order dismissing the applications was also dismissed by the Appellate Court on December 13, 2012 observing that there is no explanation whatsoever with regard to the non-appearance of the Advocate.

I have gone through the orders passed by the Courts below and I am of the opinion that both the Courts have adopted a casual approach in shutting the doors to LRs of Roshan Lal to seek redressal by getting adjudication of the matter on merits. The rules of justice are handmade of justice. Once Roshan Lal, during the pendency of the case, had died, it is not established that his heirs were aware of the pendency of the proceedings or that the Advocate was aware of his death. Since fair opportunity has been denied to the heirs of Roshan Lal to seek adjudication on merits, in the interest of justice, this petition deserves to be allowed. It is ordered that the application for impleadment of LRs is allowed. The order dismissing the petition in default is also set aside. The petition is ordered to be restored to its original number subject to payment of cost of Rs.5000/- to the defendant-respondents to be paid on May 23, 2015. Parties are directed to appear before the trial Court on May 23, 2015.

Allowed in the aforesaid terms.

April 27, 2015
sanjay

(M.M.S.BEDI)
JUDGE