

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(253)

CR No.3611 of 2014 (O&M)

Decided on: July 23, 2015.

Improvement Trust, Ropar and another

.... Petitioners

Versus

Nirmal Rani and another

..... Respondents

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

Present: Mr. J.S. Toor, Advocate,
for the petitioners.

Mr. Jaideep Verma, Advocate,
for the respondents.

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

This is defendant's revision petition against the order dated 09.12.2013 Annexure P-3, dismissing the application for setting aside the ex parte proceedings dated 09.08.2008 by dismissing its application under Order 9 Rule 7 CPC.

On asking of the Court, learned counsel for the respondents informs that on 09.08.2008 the matter was listed before the trial Court for consideration of application under Order 39 Rules 1 and 2 CPC filed by the plaintiffs-respondents. The application filed by the defendants-petitioners for setting aside ex parte proceedings was filed within period of limitation. The trial Court appears to have adopted a harsh approach in deciding the application which apparently violates rules of natural justice. The defendant-petitioners, Improvement Trust, Ropar cannot be penalized for default of its clerk who was stated to be out of station on account of family

function when the defendants-petitioners were proceeded ex parte.

This petition is allowed. The order dated 09.12.2013 is hereby set aside. It is directed that trial Court shall take up the proceedings in accordance with law w.e.f. the date when the defendants were proceeded ex parte. However, defendants will be required to pay costs of Rs.2,000/- to the plaintiffs.

Parties will appear before the trial Court on the date already fixed or on 22.08.2015 whichever is later for further proceedings.

(M.M.S. BEDI)
JUDGE

July 23, 2015
harsha