

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.3969 of 2015

Date of Decision.27.07.2015

Jagjit Kaur and anotherPetitioners
Versus
Narinder Pal Singh and othersRespondents

2. C.R. No.3987 of 2015

Darshan Singh and othersPetitioners
Versus
Narinder Pal Singh and othersRespondents

Present: Dr. Surinder Singh Joshi, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. Both the revision petitions are against an order passed by the Trial Court directing the ex parte order to be set aside and under Order 9 Rule 7 CPC imposing costs of ₹ 2500/- to be paid before 22.12.2014. According to him, the cost was not being paid. If the costs had not been paid, the consequence will operate itself and the plaintiff will have no grievance. The Court will always be liberal in construing an application for setting aside the ex parte order under Order 9 Rule 7 CPC. The Court also thought it fit to impose costs of ₹ 2500/- as condition for setting aside the the ex parte order.

2. There is no ground for making an intervention with the order impugned. The civil revision in C.R. No.3987 of 2015 is dismissed.

3. The civil revision in C.R. No.3969 of 2015 is against the

order where the application filed by the plaintiff to strike off the defence for non compliance of the direction given by the Court was dismissed. The Court while dismissing the application has observed that the costs was imposed only under Order 9 Rule 7 CPC and not under Section 35-B CPC and therefore, the defence cannot be struck off. If the defence has not been struck off, I will not find it still relevant for consideration of correctness of the order, for, if the cost is not paid in the manner directed, it would only be taken that the ex parte order against the defendant itself has not been set aside. The defendant takes a consequence of non-payment of costs and it shall not be possible for the Court to entertain any written statement without allowing for compliance of the direction already given. I clarify to the petitioner that his right must be taken as still available to contend as and when the defendant makes the payment of costs and files the written statement that the written statement cannot be received, for, there is no compliance of the direction within the time granted by the Court. The petitioner is still at liberty to object to reception of the written statement from the defendant. Perhaps, it might require an independent application from the defendant to receive the written statement beyond time. The Court will then pass appropriate orders after taking on board the objections of the petitioner.

4. I dispose of the civil revision with the above observations dispensing with notice to the respondents.

(K. KANNAN)
JUDGE

July 27, 2015
Pankaj*