

221.

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

Civil Revision No.3935 of 2013 (O&M)

Date of decision:19.11.2015

Ashok Kumar

.... Petitioner

versus

M/s Hotz Industries Limited and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. P.R. Yadav, Advocate,
for the petitioner.

Mr.Kunal Dawar, Advocate,
for respondent No.1.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. At the stage of setting aside an ex parte decree obtained against the defendant, a purchaser from the decree holder sought for impleadment. The court rejected the same and allowed him the liberty to move afresh if the decree was set aside.

2. I find no rationale for restriction to a purchaser, for, after all if the plaintiffs could resist an application to set aside the decree, a purchaser from the plaintiff ought to have the same right not

merely after the application is allowed but to even contest an application to set aside the decree. After all, even if the application filed by the defendant were to be allowed, the third party, who had purchased the property, could still be taken to be aggrieved person as a person who has purchased the property from the plaintiffs and if he can himself prefer an appeal against such an order as an aggrieved person, *a fortiori*, he shall have such a right even to contest the application before the decree is set aside.

3. The impugned order is set aside and the civil revision is allowed. The third party shall be added as a co-respondent with the plaintiffs and in the event of a decree being set aside and the matter should go for trial, the purchaser shall be arrayed along with the plaintiffs if the plaintiffs have no objection. If they have any objection, the said plaintiffs would be transposed as defendants in suit with permission to the third party to prosecute the suit as plaintiff. The latter part of this order is merely provisional, depending on the outcome of the application for setting aside the ex parte decree.

(K.KANNAN)
JUDGE

19.11.2015
sanjeev