

203.

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

Civil Revision No.4528 of 2014 (O&M)

Date of decision: 24.12.2015

Karnail Singh

... Petitioner

versus

Krishan Chand

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Harshit Jain, Advocate,
for the petitioner.

Mr.Gaurav Sharma, Advocate,
for the respondent.

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. An irregular exercise of discretion by a Judge in extending the period for compliance of a conditional order passed is a subject of revision before this court. In a suit for recovery of money, there was an ex parte decree. The defendant filed an application to set aside the ex parte decree which was originally dismissed and in appeal, the appellate court had allowed the application on condition that the defendant should furnish bank guarantee for the suit claim and also pay costs of ₹5,000/- within a

stipulated period before the trial court. Neither deposit was made nor the costs were paid. The application was filed before the Executing Court which was dismissed. Later an application was filed before the trial court, on whose satisfaction, the bank guarantee was to be accepted as per the directions of the appellate court. A fresh application was again filed without disclosing the earlier application filed before the Executing Court and this was allowed without notice.

2. There is a justification for the petitioner's complaint that the court could not have extended the time already granted without notice. It was surely irregular, but on a substantial cause of justice if the defendant had been given the benefit of defence for a full-fledged contest only on furnishing bank guarantee on payment of costs, there is no serious prejudice that could be said to have been resulted to the plaintiff. I maintain the order but direct however that the respondent pays a further sum of ₹5,000/- as costs within a period of 4 weeks to the plaintiff-petitioner.

3. Revision petition is disposed of with the above directions.

(K.KANNAN)
JUDGE

24.12.2015
sanjeev