

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 5230 of 2015 (O/M)
Date of decision : 17.8.2015

Gurmukh Singh

..... Revisionist

Versus

Mukesh Kumar

..... Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Ruchi Sekhri, Advocate, for the revisionist.

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

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KULDIP SINGH, J. (ORAL)

Impugned in the present revision is the order dated 16.12.2014 (Annexure-P-6) and order dated 12.5.2015 (Annexure-P-8), passed by the learned Additional Civil Judge (Senior Division), Phillaur.

Briefly stated, the suit of the plaintiff (respondent herein) was dismissed in default, vide order dated 22.2.2013 (Annexure-P-4), passed by the then learned Additional Civil Judge (Senior Division), Phillaur. The plaintiff/respondent filed an application for restoration of the suit on 12.12.2013 (Annexure-P-5), which was

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allowed, vide impugned order dated 16.12.2014 (Annexure-P-6). The defendant (revisionist herein) filed an application for setting aside the said order, which was dismissed by the lower Court, vide order dated 12.5.2015 (Annexure-P-8).

The contention of the learned counsel for the defendant/revisionist is that in the order dated 16.12.2014 (Annexure-P-6), wrong dates have been mentioned. The lower Court noticed that the suit was dismissed in default on 23.7.2011 and that the application for restoration of the suit was filed on 5.8.2011, which is well within the limitation period of 30 days. Therefore, the same was allowed and the present revisionist (defendant) was proceeded against ex-parte. However, previously also, the plaintiff/respondent was proceeded against ex-parte on 23.7.2011 and the lower Court has erred in deciding the matter on the basis of wrong facts.

I have heard learned counsel for the defendant/revisionist and have also carefully gone through the file.

The perusal of the file shows that the suit of the plaintiff/respondent is for possession by way of specific performance of huge land, measuring 117 marlas, abutting the G.T. Road. The sale consideration is Rs. 99,00,000/-. Admittedly, in this case, the case is at initial stage. In the application dated 12.12.2013 for restoration of the suit, it was mentioned that inadvertently, date

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22.3.2013 was recorded by the learned counsel in place on 22.2.2013. The lawyer did not tell him about the dismissal of the case. Admittedly, the lower Court mentioned wrong dates, while considering the application for restoration of the suit. However, such error can be rectified by this Court, while passing the present order.

In this case, huge valuable property i.e. 117 marlas, abutting the G.T. Road, is involved. The suit was dismissed in default for non appearance of the counsel of the plaintiff/respondent. The application for restoration of the suit was filed on 12.12.2013.

I am of the view that for the lapse of the counsel, the parties are not to be penalized. The controversy needs to be decided on merits. Therefore, the error in dates mentioned in the impugned order dated 16.12.2014 (Annexure-P-6) is rectified and it is ordered that the suit be decided on merits. Therefore, the impugned orders, with the above-noted modification of error in the dates, are upheld and the present revision stands dismissed.

(KULDIP SINGH)
JUDGE

17.8.2015
sjks