

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 5773 of 2013 (O&M)

Date of decision: 30.03.2015

Malkhan Singh and others

... Petitioners

versus

Kiran Kumar0

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Kiran Pal Singh, Advocate for the petitioners.

Mr. Sukant Gupta, Advocate for the respondent No.1.

K.Kannan, J.

The revision is against the dismissal of the petition filed to set aside the ex-parte order under Order 9 Rule 7 of the Code of Civil Procedure. The suit was for declaratory relief in respect of the immovable property. It appears that 1st respondent has remained ex-parte already and by intervention of this Court, he was allowed to file the written statement and join the proceedings. The suit was pending for more than 7 years when defendant Nos. 2 to 5 had filed the petition to set aside the ex-parte order after initial appearance of the counsel. The counsel says that the suit itself has been disposed of on 28.04.2014 and presents before me a copy of the order of this Court.

If the suit is dismissed and then if the petition was to be filed for restoration, I direct that notice of such a restoration application be also issued to the petitioners who are defendant Nos. 2 to 5 and if suit is ordered to be restored, the defendants shall also be granted time to file the written statement within 30 days from the date of the restoration of the order and if the statement is ordered to be received,

the Court will proceed with the trial of the suit. If the petition for restoration of the suit is dismissed, no further orders are necessary since the defendants cannot be put to any hardship. If the suit has already been restored subsequent to the order passed on 28.04.2014, I set aside the order already passed and direct defendant Nos. 2 to 5 to pay the cost of ₹ 10,000/- to the plaintiff, within a period of two weeks from the date of receipt of the copy of the order and file the written statement within four weeks as last chance. If the statement is not filed, the defence of defendant Nos. 2 to 5 will be taken as struck off and they can only participate in the proceedings and will not have the benefit of filing of the written statement subsequently. The last contingency is only if the suit is still pending. If the suit is not on record, but dismissed without restoration, any one of the first two contingencies contemplated in this order will operate.

The civil revision petition is disposed of with above observations.

30.03.2015

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(K.KANNAN)
JUDGE