

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 7377 of 2015 (O/M)
Date of decision : 4.11.2015

Kamaljit Kaur Lola

..... Revisionist

Versus

Kirat Singh @ Kirtan Singh and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Rajiv Joshi, 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 28.7.2015 (Annexure-P-5), passed by the learned Civil Judge (Senior Division), NRI Cases, Jalandhar, vide which the ex-parte proceedings against defendants were set aside, subject to costs of Rs. 2,000/-, without calling for reply from the plaintiff (revisionist herein).

The learned counsel for the revisionist contends that the suit was filed on 21.2.2014. The respondents/defendants, who happen to be father-in-law and husband of the plaintiff/revisionist,

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kept on watching the proceedings and after 1½ years, the application was filed on 1.7.2015 for setting aside the ex-parte proceedings. The lower Court, without calling for the reply and hearing the plaintiff/revisionist, set aside the ex-parte proceedings. No opportunity of hearing was given to the plaintiff/revisionist.

The perusal of the impugned order shows that in this case, the plaintiff/revisionist has challenged the sale deed, executed by the defendants. The parties are close relations. Though, it is not appreciated that the lower Court decided the application of the defendants for setting aside the ex-parte proceedings without giving any opportunity of hearing to the plaintiff/revisionist, but in order to save time and the expenses, opportunity of hearing has been given to the plaintiff/revisionist before this Court. After examining the matter and controversy involved, I am of the view that keeping in view the controversy involved and the relations between the parties, the matter should be decided on merits. Therefore, the order setting aside the ex-parte proceedings against defendants is upheld. However, it is observed that for causing delay and harassment to the plaintiff/revisionist, the costs of Rs. 2,000/-, imposed by the lower Court, are on the lower side. In such cases, where the allegations are that the other party was watching the proceedings, exemplary costs should have been imposed. Therefore, the impugned order is upheld with the modification that the order imposing costs of Rs.

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2,000/- is set aside and instead the lower Court is directed to hear both the parties and pass fresh order as to what kind of exemplary costs should be imposed.

The present revision is accordingly disposed of, with above-noted observations.

(KULDIP SINGH)
JUDGE

4.11.2015
sjks