

CR-7688-2014 (O&M)

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

**CR-7688-2014 (O&M).
Decided on: March 2, 2015.**

Rupinder Kaur

..... Petitioner(s)

Versus

Ali Bin Azhar and another

..... Respondent(s)

*** * ***

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Mr.Ghulam Nabi Malik, Advocate,
for the petitioner.**

M.M.S. BEDI, J (ORAL)

The suit of the plaintiff-petitioner for specific performance of an agreement of sale dated 12.9.1997, has been decreed ex parte vide judgment and decree dated 11.5.2004. The said decree has already been executed and the plaintiff-petitioner claims to be in possession thereof. However, the application under order 9 Rule 13 CPC for setting aside the ex parte judgment and decree dated 11.5.2004 has been allowed vide impugned order dated 20.8.2014.

Counsel for the petitioner has vehemently contended that the defendants-respondents had been served at the address given in the agreement of sale and that they had knowledge about the pendency of the suit but with a sole objective to delay the proceedings intentionally evaded appearance before the trial Court. The application under Order 9 Rule 13 CPC is merely a device to delay the proceedings.

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I have heard the learned counsel for the petitioner at length and carefully gone through the impugned order and I am of the opinion that no doubt a prejudice has been caused to the plaintiff petitioner to get the benefit of ex parte decree for specific performance obtained by her but at the same time the defendants respondents have been granted an opportunity to contest the case. Since the petitioner has been put in possession in execution of the decree, the trial Court seems to have committed no apparent error in giving a fair opportunity to the defendants-respondents to contest the case by setting aside ex parte judgment and decree dated 11.5.2004.

After hearing the counsel for the petitioner and going through the record, with an objective to strike a balance between the rights of the plaintiff-petitioner and the rights of the defendants-respondents to have a fair opportunity to contest the case, this revision petition is disposed of with a direction to the trial Court that the suit filed by the plaintiff-petitioner will be decided within a period of one year after the receipt of a certified copy of this order as the rights of the parties seem to accrue from alleged agreement of sale and the plaintiff-petitioner had obtained a decree about more than 10 years back.

A copy of the order be communicated to the trial Court for compliance.

March 2, 2015.
rka

(M.M.S. BEDI)
JUDGE