

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

RSA No. 5590 of 2014 (O&M)

Date of decision: September 18, 2015

Jai Kishan

...Appellant

Versus

Ram Niwas

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. **Whether Reporters of local papers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest?**

Present: Mr. Sandeep Goyal, Advocate,
for the appellant.

K. KANNAN, J. (Oral)

1. The appeal is brought by a plaintiff who filed a suit and had his suit dismissed in default for non-prosecution when the counsel reported no instructions and the plaintiff presented yet another suit on the same averments and sought for a decree. Both the courts held that the suit was barred.

2. Learned counsel states that it was not a decision on merit and the counsel had reported no instruction and the case was dismissed without adjudication on merits and, therefore, the bar of resjudicata does not apply.

The counsel would refer to the judgment of the Supreme Court in State of U.P. And another Versus Jagdish Saran Agrawal land others 2009 (1) SCC 689 as supporting his plea that there will be no resjudicata in such case. I

have gone through the judgment and it says the same thing; viz, that resjudicata will not apply but the bar will operate under Order 9 Rule 9 CPC. The remedy for the plaintiff was to have the suit restored and not come with yet another suit. The second appeal is dismissed, but the plaintiff could resort to such remedy as available under the law.

September 18, 2015
prem

(K.KANNAN)
JUDGE