

HIGH COURT OF CHHATTISGARH, BILASPUR

CR No. 86 of 2015

- Kausal Kishore Trivedi S/o Ram Lal Trivedi, Aged about 75 Years,
R/o Manav Mandir Chawk, Rajnandgaon, Tahsil Rajnandgaon, District
Rajnandgaon (Chhattisgarh) (Plaintiff)

---- Applicant

Versus

- Abeda Ahmed W/o Riyaz Ahmed, Aged about 58 Years, R/o Juni
Hatri Rajnandgaon, Tahsil Rajnandgaon, Zila Rajnandgaon
(Chhattisgarh) (Defendent)

---- Non-applicant

For Applicant	:	Shri Anup Majumdar, Advocate
For Non-applicant	:	Shri Rakesh Thakur, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

21/07/2016

1. By the impugned order, trial Court has granted application under Order 9 Rule 13 of Code of Civil Procedure (for short 'CPC') thereby setting aside the *ex-parte* decree dated 11-04-2014 against which this revision has been preferred.
2. Learned counsel appearing for the applicant/plaintiff would vehemently argued that the defendant/non-applicant has failed to show sufficient cause for not appearing in the Civil Suit when the case was called for hearing and, therefore, learned Trial Court is absolutely justified in holding sufficient cause has been shown and setting aside the *ex-parte* decree which is apparent from the fact that immediately after the application under Order 9 Rule 13 of CPC was filed, the suit property was sold by non-applicant herein on 26-09-2014.
3. Learned counsel appearing for the respondent/defendant would support the impugned order.

4. After hearing learned counsel for the parties and after going through the impugned order and the reasons recorded by the trial Court for setting aside the *ex-parte* decree, I am satisfied that the defendant has succeeded in showing sufficient cause for his absence when the case was called out for hearing. Therefore, the Trial Court is absolutely justified in setting aside the *ex-parte* decree. I do not find any jurisdictional error in the impugned order and accordingly, this revision deserves to be and is hereby dismissed. However, the applicant will be entitled for cost of Rs.2500/- from the non-applicant herein which the non-applicant will pay to applicant within 15 days.

5. However, taking into consideration of the fact that Civil Suit was filed on 09-01-2014 and remained pending since then, and on account of subsequent event, I deem it proper to direct the District Judge, Rajnandgaon to decide the said civil suit within four months from the date of receipt of certified copy of this order.

6. No cost(s).

Sd/-
(**Sanjay K. Agrawal**)
JUDGE