

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

CR No. 318 of 2014 (O&M)

Date of decision: January 14, 2016

Pankaj Verma

...Petitioner

Versus

Smt. Vimla Devi and another

...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. Kul Bhushan Sharma, Advocate,
for the petitioner.

Mr. RK Sharma, Advocate,
for the respondents.

K. KANNAN, J. (Oral)

1. A suit for specific performance was decreed ex-parte. There was no reference to costs as required to be stated in the judgment and the decree. The decree-holder, therefore, filed an application pointing out to the lapse of the Court for following the mandate under Order 20 Rule 6 of the Code of Civil Procedure (for short '**the Code**') to give direction as to costs. The Court rejected the application stating that the Court has no power to invoke either Section 51 or 52 of the Code to make provision for the same. The decree holder is aggrieved and hence revision.

2. Order 20 Rule 6, Clauses 2 and 3 thereof of the Code refers to the contents of the decree and the amount of costs incurred in the suit to be stated in the decree and payment thereof by either party. Clauses (2) and (3) are re-produced as under:-.

“6. Contents of decree.—(1)**xx xx xx**

(2) The decree shall also state the amount of costs incurred in the suit, and by whom or out of what property and in what proportions such costs are to be paid.

(3) The Court may direct that the costs payable to one party by the other shall be set off against any sum which is admitted or found to be due from the former to the latter.”

3. Clause 2 is in the nature of mandate and the Court is bound to express how the costs are dealt with. If it has not been done and the decree-holder moves an application, the Court has the inherent power to rectify itself and pass an appropriate order. The Court's power is not lost for what it failed to do as mandated by the Code of Civil Procedure.

4. Learned counsel for the respondents says that there is already an application for setting aside the ex-parte decree and the same is pending. Irrespective of the pendency of the application, I direct the trial court to pass an appropriate order on the application filed by the decree-holder for direction as to costs in the manner mandated by Clauses 2 and 3 of the Code. The order already passed is set aside the revision is allowed, remitting the matter to the trial court for disposal of the application in accordance with law and in the light of the direction given above.

January 14, 2015
prem

(K.KANNAN)
JUDGE