

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Civil Revision No.4079-2016 (O&M)

Date of decision: September 05, 2016

Balvir Singh Dhaliwal

...Petitioner

Versus

Manjit Singh Dhaliwal & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Arun K. Bakshi, Advocate for the petitioner.

Rajan Gupta, J.

Present revision petition is directed against the order dated 28.03.2016, passed by the trial court allowing the application filed by respondent No.1 U/O 9 Rule 13 CPC for setting-aside ex-parte judgment & decree dated 19.07.2011.

The order has been assailed by the counsel for the petitioner. According to him, the applicant was fully aware of the pendency of suit. Thus, judgment and decree dated 19.07.2011, passed in the said suit is legal and not required to be set-aside.

I have heard learned counsel for the petitioner and given careful thought to the facts of the case.

It reveals that a civil suit No.50 of 2005 was filed by the petitioner through his Power of Attorney Harnek Singh Mattu against Manjit Singh Dhaliwal and predecessor-in-interest of respondents No.2 to 5. (respondents herein). Said suit was dismissed as withdrawn on 20.03.2008. Later on, on 14.06.2008, petitioner moved an application

under section 151 CPC for restoration of the aforesaid suit, which was allowed by the trial court vide order dated 1.4.2010. Later on, ex-parte judgment and decree was passed on 19.07.2011. However, on 19.3.2006, petitioner filed a civil suit bearing No.72 of 2006 through his attorney Amrik Singh against the petitioner and predecessor-in-interest of respondents No.2 to 5, which was dismissed on 1.2.2012. The trial court observed that earlier suit No.50 of 2005 was filed by the petitioner through Sh. S.K. Goyal, Advocate, but later on he represented one of the defendant in civil suit No.72 of 2006, therefore, said counsel might not have conveyed the factum of filing and pendency of suit No.50 of 2005 to the applicant/respondent No.1. Thus, the court below allowed the application filed by the respondents U/O 9 Rule 13 CPC and the ex-parte judgment and decree dated 19.7.2011 was also set-aside subject to costs. I find no legal infirmity with the order. The trial court has rightly allowed the application. The revision petition is, thus, without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

September 05, 2016
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No