

Civil Revision No.410 of 2016

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

Civil Revision No.410 of 2016
Date of decision: 18.02.2016

Smt. Shankuntla Shukla and another

....Petitioners

Versus

Smt. Murti Mittal

....Respondent

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH DHALIWAL

- 1) Whether Reporters of the 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. Varun Baanth, Advocate, for the petitioners.

PARAMJEET SINGH DHALIWAL, J. (ORAL)

Instant revision petition under Article 227 of the Constitution of India has been filed against the order dated 05.01.2016 passed by learned Civil Judge (Senior Division), Ambala, vide which the application of the petitioners seeking setting aside of ex parte order dated 25.03.2006 (wrong mentioned in the petition as 23.05.2006) has been dismissed.

Brief facts of the case are that respondent obtained decree dated 02.12.1999 of mandatory injunction for removing the construction in the common street shown in the site plan attached to the suit. Thereafter, respondent filed execution petition before the Executing Court. Petitioners engaged Sh. M.G. Bagga, Advocate, to appear before

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the Court on their behalf. However, learned counsel failed to appear before the Executing Court and petitioners were proceeded against ex parte vide order dated 23.05.2006. On 28.09.2015, petitioners moved an application for setting the said aside ex parte order, which has been dismissed vide order dated 05.01.2016 by learned Civil Judge (Junior Division), Ambala. Hence, this revision petition.

I have heard learned counsel for the petitioner and perused the record.

Learned counsel for the petitioners contended that the decree dated 02.12.1999 was obtained by the respondent and after it attained finality, the respondent filed execution application wherein petitioners were proceeded against ex parte on 23.05.2006. Learned counsel for the petitioners further contended that they had engaged counsel to contest the execution application but despite their good faith in the counsel, he did not appear in the case. They came to know about the ex parte order in the year 2015. Thereafter, they filed application dated 28.09.2015 for setting aside the ex parte order, which has wrongly been dismissed by the learned Civil Judge vide impugned order dated 05.01.2016.

I have considered the contentions raised by learned counsel for the petitioners.

The contentions raised by learned counsel for the petitioners cannot be accepted. Petitioners cannot say that they came to know about the ex parte order in the year 2015, as they had already filed objections

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to the execution petition on 25.07.2008. Moreover, petitioners remained silent for nine years and after a huge delay of nine years, ex parte order cannot be set aside without showing cogent and convincing reasons for condoning the delay.

In view of above, I do not find any illegality or perversity in the impugned order.

Dismissed.

(Paramjeet Singh Dhaliwal)
Judge

February 18, 2016
R.S.