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

CR-4621-2015

Date of decision : 18.01.2016

Gurbax Singh and another

...Petitioners

Versus

Harminder Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. B.S. Jaswal, Advocate
for the petitioners.

Mr. Veneet Sharma, Advocate
for the respondent.

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?

AMIT RAWAL, J. (ORAL)

The petitioners are aggrieved of the order dated 12.05.2015 whereby the application filed under Order 9 Rule 7 of the Code of Civil Procedure for setting aside the ex parte proceedings in a suit filed by the respondent-wife claiming 1/3rd share in the property described in the suit, has been dismissed.

Mr. B.S. Jaswal, learned counsel appearing on behalf of the petitioners-defendants submits that the suit aforementioned was

filed on 18.11.2013 and notice was issued for 16.12.2013. The trial Court without complying the provisions of the Code of Civil Procedure, proceeded ex parte by holding that there was a refusal on the report of the summons on acquiring knowledge, application aforesaid was moved.

Mr. Veneet Sharma, learned counsel appearing on behalf of the respondent submits that the application is wanting the basic particulars of the acquisition of knowledge, viz-a-viz, the pendency of the suit, thus, rightly so, has been dismissed. There is no illegality and perversity in the order under challenge.

I have heard the learned counsel for the parties and appraised the paper book.

Shorn of the facts noticed above, without adverting the merits and demerits of the matter, the fact remains that the dispute is between the husband. Wife, who is claiming 1/3rd share in the house, mutated in the name of the husband. In my view, the petitioner No.1-defendant and his minor son are required to be given a chance to contest the suit in order to rebut the averments. No doubt, the application is not happily worded, but, in order to avoid manifest in justice and render a justice between the parties and I deem it appropriate to give one opportunity to the petitioners-defendants to file the written statement, subject to the payment of cost of ₹ 5,000/-.

Accordingly, the impugned order declining the application filed under Order 9 Rule 7 of the Code of Civil Procedure as well as

the ex parte proceedings dated 16.12.2013 is set aside. The petitioners-defendants are granted one opportunity to file written statement on or before the next date of hearing.

It is made clear that cost shall be conditional precedent.

Nothing stated above shall have effect on the merits and demerits of the pending suit.

Accordingly, the revision petition is allowed.

18.01.2016
yogesh

(AMIT RAWAL)
JUDGE