IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

124 **Civil Revision No. 4869 of 2016**
Date of Decision: August 01, 2016

GURDAS SINGH

-PETITIONER

VS

VINAY KUMAR

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Damanjeet Bhoriwal, Advocate
for the petitioner.

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RAJ MOHAN SINGH, J. (ORAL)

In this revision petition, petitioner has assailed order dated 05.04.2016 passed by Additional Civil Judge (Sr. Divn), Gidderbaha, District Sri Muktsar Sahib.

In a suit for recovery, petitioner being defendant was proceeded against exparte on 19.03.2012 and an exparte judgment and decree dated 20.04.2012 was passed against him. An application under Order 9 Rule 13 CPC was filed by the petitioner before the same Court. A revision petition No.7753 of 2014 was also filed in the High Court against the order passed by the Executing Court. In that revision petition, following order was passed on 19.01.2016:-

"The Court before which the application for

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setting aside the ex-parte decree is said to be pending is directed to dispose of the application for stay said to have been filed before the Court. The order shall be passed within two weeks from the date of the receipt of the copy of the order and report to this Court.

Stay granted already will remain till the Court takes a decision under Order 9 Rule 13 CPC.

The civil revision petition is disposed of with above direction."

Since stay was granted by the High Court till the decision of proceedings under Order 9 Rule 13 CPC, therefore, the petitioner devised a novel method to get the proceedings prolonged as far as possible. The case was not argued by learned counsel for the defendant and ultimately, the application was dismissed in default on 05.01.2016. Despite the direction passed by the High Court in order dated 19.01.2016, the case was not decided as the applicant-defendant did not appear in the Court personally or through his counsel and even failed to appear in the proceedings arising out of application under Order 9 Rule 13 CPC.

Perusal of the material placed on record reveals that the application under Order 9 Rule 13 CPC was filed for setting aside the exparte judgment and decree dated 20.04.2012. Execution was filed on 01.09.2012, upon which the petitioner filed Civil Revision No.7753 of 2014

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in the High Court. The prayer made by the petitioner therein, was that an application under Order 9 Rule 13 CPC was filed on 16.02.2013 and, therefore, stay of execution was sought on the ground that application for staying the execution was filed on 04.12.2013 and was not decided. Petitioner also alleged that the property was purchased by the decree holder in an auction for a throw away price.

Notice of motion was issued in the aforesaid revision petition on 17.11.2014 and further proceedings before the Executing Court were stayed subject to depositing half of the decretal amount by the petitioner within a period of 10 days. It was also directed that the Executing Court shall adjourn the hearing beyond the date fixed in the High Court. Despite availing number of opportunities, the petitioner did not comply with the direction passed by the High Court and thereafter, learned counsel for the petitioner again suffered a statement in the proceedings under Order 9 Rule 13 CPC on 25.05.2015 that he will produce the copy of order and application for extension of time to pay half of the decretal amount as per order dated 17.11.2014. Despite that, needful was not done in the context of producing the order. The petitioner even did not appear on 05.01.2016. In this way, the petitioner was successful in buying time without doing anything towards compliance of the order passed by the High Court on

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17.11.2014.

Having perused the material on record, this Court feels that a person who has not come to the Court with clean hands does not deserve any equitable relief.

Accordingly, this revision petition is dismissed.

01.08.2016 **(RAJ MOHAN SINGH)**
jyoti Y. **JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No

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