

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.6417 of 2014

Date of Decision: February 26, 2016

Motha Singh and others

...Petitioners

Versus

Lekh Ram and others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

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.P.K.Chugh, Advocate,
for the petitioners.

Mr.Ashok Kaushik, Advocate,
for respondent Nos.1 to 9.

Mr.D.K.Mittal, DAG, Haryana,
for the State.

Ms.Neha Rathi, Advocate,
for proforma respondent Nos.11 to 13 & 15.

AMIT RAWAL, J. (Oral)

The petitioner-judgment debtors are aggrieved of the dismissal of their application filed under Order 9 Rule 13 of the Civil Procedure Code seeking setting-aside of the ex-parte judgment and decree dated 21.5.1996 and the appeal filed against the same also met with the same fate.

Mr.P.K.Chugh, learned counsel appearing on behalf of the petitioner-judgment debtors submits that the respondent-plaintiffs, in a suit which resulted into passing ex-parte judgment and decree, gave the address of Village Shekhpur, whereas they are residents of Village Baghola. All these facts were brought on record by way of evidence, i.e., by producing the voter card, ration card etc. The Court below declined the application

holding that the same was barred by law of limitation as they had acquired

the knowledge of ex-parte judgment and decree way back in the year 1998 and, therefore, the application was filed on 17.5.2006, i.e., after a long and considerable delay.

Mr.Ashok Kaushik, learned counsel appearing on behalf of respondent Nos.1 to 9 submits that the application was not only misconceived, but a dishonest act and greed for the reason that during the interregnum, the finding has come that there is no limitation to seek redemption of the property. The suit was for seeking declaration and possession for the reason that the respondent-plaintiffs did not seek the redemption. Even otherwise, as per the report of the Bailiff, the possession was handed over on 20.6.1998. Even the respondent-plaintiffs had given the address of Village Shekhpur and, thus, the application is not sustainable and prays for dismissal of the revision petition.

I have heard the learned counsel for the parties and appraised the paper book and am of the view that there is no merit in the revision petition. The address given in the application filed under Order 9 Rule 13 CPC reads thus:-

- “1. Motha Singh son of Malha Singh,*
- 2. Inder Singh (since deceased) through his L.Rs (i) Sewa Singh, (ii) Dharam Singh, (iii) Satnam Singh, (iv) Kashmir Singh sons of Inder Singh,*
- 3. Pala Singh (since deceased) through his L.Rs.(i) Sarwan Singh, (ii) Charan Singh, (iii) Kashmir Singh, (iv) Jarnail Singh, (v) Karam Singh, (vi) Banta Singh sons of Pala Singh*
- 4. Surjit Singh son of Punjab Singh son of Ujagar Singh, all residents of vill.Sekhpur, Tehsil Palwal, Distt. Faridabad.”*

The Bailiff has taken possession of the property vide his report dated 20.6.1998 and it was directed to be recorded in the revenue record. No

explanation has come forward for filing the application after delay of ten years, much less, no application under Section 5 of the Limitation Act was moved seeking condonation of delay. The voter card and ration card would be meaningless for the reason that the petitioners have given their own address of Village Shekhpur and, therefore, rightly so, the application seeking setting-aside of the ex-parte judgment and decree has been dismissed. The appeal filed against the order has already been dismissed.

There is no merit in the revision petition. The same is accordingly dismissed.

February 26, 2016
ramesh

(AMIT RAWAL)
JUDGE