

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

**CR No. 6729 of 2015 (O&M)**

**Date of decision: 22.04.2016**

Jaswinder Singh

... Petitioner

versus

Munish Kumar and another

.... Respondents

**CORAM: HON'BLE MR. JUSTICE K. KANNAN**

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Present: Mr. Binderjit Singh, Advocate for the petitioner

Mr. Harpreet Dandiwal, Advocate for respondent No.1.

**K.Kannan, J. (ORAL)**

The civil revision petition is against the order dismissing the application for staying of proceedings till the disposal of the application filed under Order 9 Rule 13 CPC. The petitioner was contending that the Court had not ordered notice in suit after the suit was registered as indigent person and on the same day when the suit was ordered to be registered, the Court had also directed ex-parte evidence of the plaintiff. The order is ex facie wrong. The Court could not have disposed of the suit without serving notice in suit again. The Court ought to have stayed all further proceedings till the disposal under Order 9 Rule 13 CPC. I had call for the records only to satisfy myself that the order passed by the Court on 19.08.2011 was in conformity with the law. I find that the order passed on 19.08.2011 is illegal and no purpose will be served by needlessly allowing for the application under Order 9 Rule 13 to be pending before the Court below. Since I have secured the records and I am satisfied that the order passed was erroneous, I set aside the ex parte decree passed on

22.05.2013 and deem it as unnecessary for the trial Court to consider the application filed under Order 9 Rule 13 CPC. The ex parte decree is set aside and the petitioner-2<sup>nd</sup> defendant is given an opportunity to file the written statement within a period of 30 days from the date of receipt of the copy of the order. If the statement is not filed, the Court is at liberty to strike of the defence and dispose of the case in accordance with law.

Although, the revision is against the order passed in the Executing Court, I have exercised my power under Article 227 to do complete justice and to set aside the illegal decree that has been passed on 22.05.2013. By virtue of this order, it is unnecessary to dispose of the application pending before the Court below under Order 9 Rule 13. It shall be treated as allowed through this order.

The impugned order as well as ex parte decree are set aside and the revision petition is allowed with the above directions.

**(K.KANNAN)**  
**JUDGE**

22.04.2016

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