

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

CR No.773 of 2016
Date of decision : 04.02.2016

Karan Singh

...Petitioner

Versus

General Public and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Tarun Seth, Advocate for
Mr. Brijender Kaushik, Advocate for the petitioner.

AMIT RAWAL, J. (Oral)

The petitioner-plaintiff is aggrieved of the order, whereby, application filed under Order 9 Rule 13 of the Code of Civil Procedure, for setting aside ex parte judgment and decree dated 19.11.2010, has been allowed.

It has been submitted that Pardeep Kumar died in the year 2004 and on inheritance of the property by the applicant, filed application under Order 9 Rule 13 CPC, The appeal against the order dated 21.03.2011 passed by the Assistant Collector First Grade was filed, whereby objections of the plaintiff vis-a-vis mutation was dismissed. However, the matter is pending before the Collector and applicant was not necessary party and there is nothing concealed by the plaintiff, much less, no fraud was played by them.

Thus, Court below have totally ignored the facts and law while deciding the

application.

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

The applicant Deepa Rani is sister of Pardeep Kumar whose estate is being claimed by applicant in application under Order 9 Rule 13 had produced documents as Ex.A1 to Ex.A8 and other documents. On perusal of the documents, it is found that petitioner-plaintiff filed the suit bearing No.49 of 2010 and notice was issued to defendant Nos.1 and 2. However, none appeared on behalf of defendant No.1 through General Public and proceeded ex parte vide order dated 12.05.2010, whereas defendant No.2 appeared through counsel.

I am of the view that applicant is necessary party and she should have been impleaded by name as Deepa Rani w/o Sohan Lal, r/o of Village Barot, Tehsil Ladwa of District Kurukshetra, as she being real sister of Pardeep Kumar is the one who is having interest in the property for the reason, that the plaintiff had filed suit for declaration regarding land which the applicant had intrinsic right to inherit, on account of death of Pardeep Kumar son of Gurdev Singh, thus, applicant being a collateral is necessary party/person, therefore, the finding rendered by the trial Court allowing the application Under Order 9 Rule 13 CPC in setting aside ex parte judgment and decree does not suffer from any illegality and perversity, much less, cannot be stated to have been passed without jurisdiction.

Revision petition is dismissed.

04.02.2016

pawan

**(AMIT RAWAL)
JUDGE**