

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

**RSA No.429 of 2016 (O&M)
Date of decision:02.02.2016**

Anjan Kumar Sahu ... Appellant

Vs.

Gurbax Rani ... Respondent

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:- Ms. Swati Batra, Advocate
for the appellant.

AMIT RAWAL J. (Oral)

C.M.No.1273-C of 2016

For the reasons stated in the application, which is duly supported by an affidavit, delay of 60 days in filing the appeal is condoned.

C.M. stands disposed of.

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The appellant-plaintiff is aggrieved of the judgments and decrees of the Courts below, whereby, the suit for declaration challenging the ex parte judgment and decree dated 18.05.2006 passed by the Rent Controller in Rent Petition No.190 of 24.08.2002 in respect of House No.232, Ram Darbar, Phase-II, Chandigarh, has

been dismissed by both the Courts below.

Ms. Swati Batra, learned counsel for the appellant-plaintiff submits that the appellant could not appear in the aforementioned rent petition and proceeded ex parte, therefore, ex parte judgment and decree dated 18.05.2006 was passed. After engaging the counsel, came to know about filing of the suit. The judgment had been obtained by fraud as rent petition was filed by attorney of Khazani Devi, who is not in existence. She further submits that there is illegality and perversity in the findings rendered by both the Courts below, much less, substantial question of law arises for adjudication of the present appeal.

I have heard learned counsel for the appellant-plaintiff and appraised the paper book.

The grievance raised in the suit could have been sought by filing an application under Order 9 Rule 13 of the Code of Civil Procedure or by filing an appeal but not in the manner and mode which has been adopted. However, the appellant-plaintiff has not taken any steps nor has made any effort to seek setting-aside of the ex parte judgment and decree, therefore, choose to challenge the ex parte judgment and decree passed by the Rent Controller through the process of the Court. If at all, the appellant is aggrieved of the ex parte judgment and decree, he is at liberty to seek setting aside of the ex parte judgment and decree in accordance with law, i.e., by filing an application under Order 9 Rule 13 of the Code of Civil

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Procedure or an appeal. Accordingly, the judgments and decrees are affirmed.

With the aforementioned observations, the appeal stands disposed of.

(AMIT RAWAL)
JUDGE

February 02, 2016
savita