

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

CR No.2223 of 2017 (O&M)

Date of decision : 09.11.2017

Shanta Chopra (since deceased) through her LRs

...Petitioner(s)

Versus

Darshan Lal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Aayush Gupta, Advocate for the petitioner(s).

Mr. Ravi Chadha, Advocate for respondent No.1.

Mr. Vikas Bahl, Sr. Advocate with
Mr. Akshay Rawal, Advocate for respondent Nos.2 and 3.

ANIL KSHETARPAL, J. (ORAL)

CM No.6855-CII of 2017

For the reasons stated in the application, which is duly supported by an affidavit, legal representatives of defendant No.3-Shanta Chopra, are ordered to be brought on record, for the purpose of prosecuting the revision petition.

Application is allowed.

Main Case

Legal representatives of defendant No.3 are the petitioners before this Court. Defendant No.3 was proceeded against ex parte in the year 2011.

Defendant No.3 filed an application for setting aside the ex parte proceedings. It was pleaded in the application that defendant No.3 came to know of the pending proceedings one week before the date of filing of the application. In fact, defendant No.3 has already died and the application was filed by her daughter.

On the other hand, learned counsel for the respondent(s) has submitted that the suit is pending for the last 6 years. The suit is for specific performance of the agreement to sell. The plaintiff is claiming agreement to sell from defendant No.3.

The suit is still pending, the petitioner-defendant can join the proceedings at this stage. However, it has been brought to the notice of this Court that defendant No.3 did not even file written statement. She was not personally served. She was served through publication.

The learned trial Court has committed serious error in misreading the application and taking the date of knowledge to be 29.11.2016. In para No.1 of the application, the petitioner had only mentioned that the case is fixed for 29.11.2016. It was nowhere pleaded that defendant No.3 has come to know of the ex parte proceeding on 29.11.2016.

In view of the aforesaid discussion, the impugned order is set aside.

The ex parte proceedings taken against the petitioner are set aside. However, taking into consideration the fact that the suit is pending for more than six years, the petitioner would be granted only one opportunity to file the written statement and the Court would make sincere endeavour to complete the trial of the case within a period of three months from today.

Revision petition is disposed of.

Learned counsel for the respondent(s) has informed the Court that the case is now fixed for 14.11.2017. The petitioner shall file her written statement on 14.11.2017 itself. The case shall not be adjourned for this purpose.

09.11.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No