

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

120

CR No.3830 of 2016
Date of Decision:06.12.2017

R.P. Garg

...Petitioner

Versus

Kehar Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjiv Gupta (KKR), Advocate
for the petitioner.

Mr. S.N. Sharma, Advocate
for the respondent.

ANIL KSHETARPAL, J.(Oral)

Petitioner is in revision petition against the order whereby his application for setting aside ex-parte decree and leave to defend was allowed, subject to petitioner depositing entire decretal amount.

Petitioner had filed revision petition and while issuing notice of motion, this Court had noted as under:-

“ Learned counsel for the petitioner contends that imposition of condition of depositing the entire decretal amount while allowing the application under Order 9 Rule 13 read with Order XXXVII Rule 4 and Section 151 of the Code of Civil Procedure (for short 'CPC') on the concession of the respondent-plaintiff is too onerous. He further submits that as per the averments made in the suit, amount as sought to be recovered would not fall within the mischief of Order 37 of CPC.

Notice of motion for 19.08.2016.

In the meantime, condition of depositing of entire decretal amount shall remain stayed.”

I have heard learned counsel for the parties. Learned counsel for the parties have arrived at a consensus. It is agreed that 50% share in Showroom No.33, Yamuna Enclave, Bhishanpura, Zirakpur, which is in the name of wife of the petitioner shall be furnished as a security in lieu of the cash amount.

Learned counsel for the parties are agreed that the impugned order be modified and the petitioner be permitted to furnish security of the aforesaid property before the learned trial Court.

In view of this, the revision is disposed of. The petitioner shall furnish security of the aforesaid property along with title documents and an affidavit of the wife with an undertaking that in case, ultimately, the result of the litigation goes against him, the decree-holder shall be entitled to recover the amount from the aforesaid property.

Revision is disposed of. On furnishing security as noted above, to the satisfaction of the learned trial Court, the ex-parte decree shall stand set aside and the petitioner would be granted leave to contest the suit.

06.12.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No