

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R. No. 3468 of 2017

DATE OF DECISION:12.05.2017

Harpal Singh

.....Petitioner

Versus

Kartar Singh

.....Respondent

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. SS Salar, Advocate
for the petitioner.

DAYA CHAUDHARY, J.

The present revision petition has been filed for setting aside impugned order dated 4.5.2017 (Annexure P-11) passed by Additional Civil Judge (Senior Division), Nabha, vide which, the application filed by the respondent-defendant under Order 9 Rule 13 CPC has been allowed and ex parte judgment and decree dated 8.9.2011 has been set aside subject to the condition that the respondent-defendant shall pay an amount of ₹15,000/- as costs to the petitioner-plaintiff by way of demand draft and the parties were granted two opportunities to conclude the entire evidence of the defendant i.e. examination-in-chief as well as cross-examination.

Learned counsel for the petitioner contends that there was delay in filing the application under Order 9 Rule 13 CPC and the application for condonation of delay was also filed without mentioning the number of days and any sufficient reason.

Heard the arguments advanced by learned counsel for the

petitioner and have also gone through the impugned order dated 4.5.2017 and other documents available on the file.

In the application filed under Order 9 Rule 13 CPC, the respondent-defendant had taken a stand that because of the fault of the counsel, who was representing him before the trial Court, he was proceeded ex parte as the counsel did not inform him about the dates and subsequently some other counsel was engaged. The application for condonation of delay has been moved after mentioning of sufficient reason. While allowing the application under Order 9 Rule 13 CPC and setting aside ex parte judgment and decree, a direction was issued to the respondent-defendant to pay ₹15000/- as costs to the petitioner-plaintiff by way of draft. The parties were directed to conclude entire evidence by giving two effective opportunities as the case once restored will become 15 years old. A direction was also issued that the case will be taken up on day-to-day basis being an old case.

It is a settled preposition of law that the party should not suffer because of the fault of the lawyer. In case any lapse is there on the part of the lawyer then prejudice is always caused to the party. A procedure is meant for advancement of justice and not to scuttle the justice. In case the lawyer of the party is negligent and has not informed the party about the proceedings in the case, the litigant should not be allowed to suffer. The trial Court has directed the respondent-defendant to conclude his evidence including examination-in-chief as well as cross-examination within two effective opportunities. A direction was also issued to dispose of the case expeditiously being an old one.

In view of the above, there is no merit in the arguments

advanced by learned counsel for the petitioner and the petition being devoid of any merit is hereby dismissed.

May 12, 2017
pooja

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes