

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

C.R. No. 3684 of 2017 (O&M)

Date of decision:- 18.08.2017

Pardeep Kumar

...Petitioner

Versus

Krishan Kumar

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Dr. Deepak Jindal, Advocate
for the petitioner.

RITU BAHRI J. (Oral)

This petition under Article 227 of the Constitution of India is for setting aside order dated 30.03.2017 (Annexure P-10) passed by the learned Civil Judge (Jr. Divn.) Chandigarh.

Learned counsel for the petitioner contends that the application of the petitioner under Order 10 of CPC has been dismissed on the ground that neither averments of the application have been supported with duly sworn affidavit of the defendant nor any certified copy of the plaint titled as Pardeep Kumar v. Krishan Kumar pending before the learned Civil Judge (Jr. Divn.) Chandigarh has been produced.

Learned counsel for the petitioner while referring to Section 10 of CPC states that no Court shall proceed with the trial of any suit in which matter in issue is directly and substantially in issue in a previously instituted as both the suits have been issue in common of possession of booth in question, the subsequent suit for possession of the same booth in question filed by the respondent against the petitioner is liable to be stayed in the interest of justice.

Learned counsel submits that because of the mistake of the counsel, the client should not suffer and he has submitted that suit pending before the learned Civil Judge (Jr. Divn.) Chandigarh is pending for 04.09.2017 and the present suit in which the application has been dismissed is pending for 06.09.2017.

In view of the above factual position, the revision petition is allowed and order dated 30.03.2017 (Annexure P-10) is set aside. Accordingly, the trial Court is directed to give one effective opportunity to the petitioner to place on record copy of the civil suit (Annexure P-4) and thereafter petitioner can file fresh application before the Court below, subject to payment of cost of Rs.3000/- to be paid before the District State Legal Service Authority, Chandigarh.

August 18, 2017
G Arora

(***RITU BAHRI***)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No