

Civil Revision No.4238 of 2017 (O&M)

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

Civil Revision No.4238 of 2017 (O&M)

Date of decision: 03.07.2017

Ramesh Chand

.....Petitioner

versus

Laj Kumari (deceased) through her LRs and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Jai Singh Yadav, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Prayer in the instant revision under Article 227 of the Constitution of India has been made to set aside the order dated 15.04.2017 (Annexure P-5) passed by learned Civil Judge (Junior Division), Rewari, dismissing the application of the petitioner for setting aside the ex parte order dated 27.05.2015 as also to nullify order dated 06.05.2017 (Annexure P-6) whereby the warrants of demolition of alleged encroachment of petitioner/JD have been issued for 01.07.2017 with direction to SHO concerned to provide necessary police help.

Learned counsel for the petitioner contended that the petitioner had appeared on each and every date in the execution proceedings initiated by the respondents except on one date i.e. 27.05.2017 on which he was proceeded ex parte. Petitioner could not defend his case in civil suit as well as in execution, therefore, he may be permitted to contest the execution application on merit.

Heard.

Civil Revision No.4238 of 2017 (O&M)

decreed ex parte on 03.09.2014. Thereafter, the respondents/plaintiffs filed execution petition in which, petitioner appeared, but finally again got himself proceed ex parte. However, in view of the settled principle of law that no one should be condemned unheard and also keeping in view the interest of justice, the petitioner is allowed to contest the execution petition on merit subject to payment of costs of ₹ 10,000/- to respondents/plaintiffs.

Consequently, the impugned order dated 15.04.2017 (Annexure P-5) passed by learned Civil Judge (Junior Division), Rewari, dismissing the application for the petitioner for setting aside the ex parte order dated 27.05.2015, is hereby set aside and petitioner is directed to appear before the Executing Court on 15.07.2017 subject to payment of ₹ 10,000/- as costs. The order of demolition shall remain stayed.

Disposed of.

(Ramendra Jain)
Judge

July 03, 2017
R.S.

Whether speaking/reasoned Yes/No

Whether reportable Yes/No.