

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

CR No.5576 of 2017
Date of decision : 24.08.2017

Tara Singh

...Petitioner

Versus

Hira Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kewal Krishan, Advocate for
Mr. Premjit Kalia, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Defendant-petitioner has filed this revision petition challenging the dismissal of the application for setting aside the ex parte decree dated 23.09.2010. Even the appeal filed by the petitioner has also been dismissed by the First Appellate Court.

It has been found by the Courts that the defendant-petitioner was duly served in the case. He engaged a counsel who appeared in Court on behalf of the petitioner and thereafter stopped appearing in the suit. The petitioner was proceeded ex parte on 17.03.2009. The ex parte decree was passed on 23.09.2010. The petitioner alleges that he gained the knowledge of the ex parte decree on 10.02.2011.

The Courts below have found that the defendant-petitioner was thoroughly negligent in prosecuting his case. Once he was served and

had engaged counsel who had started appearing and thereafter stopped appearing then the Court is justified in proceeding ex parte against the petitioner. If the defendant has failed to prosecute his case, then there is no good or sufficient ground to set aside ex parte decree.

The plaintiff had filed a suit for specific performance of the agreement to sell on 25.05.2005. The ex parte decree has been passed in favour of the plaintiff. Pursuant to the ex parte decree, a right has accrued in favour of the plaintiff. This right cannot be defeated just on the application of the defendant particularly when the defendant has failed to establish on file that there was any good or sufficient reason for setting aside the ex parte decree or there is sufficient reason for his non-appearance.

In these circumstances, I do not find any reason to interfere with the concurrent findings of fact arrived at by the Courts below.

Revision petition is dismissed.

24.08.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No