

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

CR No.5768 of 2014

Date of Decision:07.12.2017

Sant Kaur and others

... Petitioners

Vs.

Teja Singh

... Respondent

CORAM : HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present : Mr. Sanjiv Gupta, Advocate for the petitioners.
Mr. Arun Abrol, Advocate for the respondent.

RAJ MOHAN SINGH J. (Oral)

Petitioners have filed this revision petition against the order dated 11.7.2014 passed by the Additional District Judge, Patiala, whereby the appeal against the order dated 28.04.2012 seeking to set aside the judgment and decree dated 12.02.2005 was dismissed.

In a suit for recovery, ex parte judgment and decree was passed on 12.02.2005 against legal representatives of Sarja Singh. Application under Order 9 Rule 13 of the CPC for setting aside ex parte judgment and decree was filed on 3.02.2007 and the same was dismissed on 28.04.2012 on the ground that applicant could not bring any material on record despite number of opportunities. Evidence of the applicant was closed by order of the Court and application under Order 9 Rule 13 of the CPC was dismissed. An appeal was preferred before the lower Appellate Court and the same was dismissed on 11.7.2014.

Learned counsel for the petitioner has sought

indulgence of this Court on the ground of alleged calculated fraud played upon the petitioner with reference to the interlocutory orders on record. He further submitted that perusal of interlocutory orders would show that petitioner was never served with the process of the Court. No satisfaction was recorded by the trial Court in respect of ordinary process that the petitioner cannot be served by means of ordinary process and straightway Munadi was ordered.

Learned counsel for the respondent has very candidly accepted the import of the order dated 8.12.2016 wherein this Court has recorded readiness on behalf of the petitioner to deposit an amount of ₹ 3.00 lacs with the Court in order to enable the petitioner to have a right to contest the litigation on merits. Today learned counsel for the respondent has agreed that the respondent is ready to accept an amount of ₹ 3.00 lacs in order to give chance to the petitioners to prove their case on merits before the trial Court. He further submits that amount of ₹ 3.00 lacs be paid to him instead of depositing with the Court, subject to furnishing adequate security to the satisfaction of the trial Court.

Learned counsel for the petitioner also submitted that petitioner would deposit the amount in question within a period of two months without prejudice to their civil rights in any manner.

In view of the aforesaid consensus arrived at between the parties, I deem it appropriate to set aside the impugned orders and relegate the parties to appear before the trial Court for fresh adjudication in accordance with law. The Trial Court shall make every endeavour to decide application under Order 9 Rule 13 of CPC within a period of four months from the date of receipt of a certified copy of this order. If the decision of the application goes in favour of the petitioners, then they will be entitled to en-cash the security.

With the above observation, civil revision petition stands disposed of.

07.12.2017
rajeev

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No