

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

Civil Revision No.7 of 2016 (O&M)
Date of decision: April 27, 2017

Puneet Sapolia

...Petitioner

Versus

Khalsa Bus service & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Binderjit Singh, Advocate for the petitioner.

Mr. S.C. Chhabra, Advocate for respondents No.1 & 2.

Rajan Gupta, J.

Present revision petition is directed against the order dated 15.10.2015, passed by the trial court allowing the application filed by contesting respondents under Order 9 Rule 13 CPC for setting-aside ex-parte judgment and decree dated 31.10.2012.

The order has been assailed by the counsel for the petitioner. According to him, the applicants were fully aware of the pendency of suit and they did not appear before the court intentionally. Thus, judgment and decree dated 31.10.2012, passed in the said suit is legal and not required to be set-aside.

Plea has been opposed by learned counsel appearing for respondents No.1 and 2. He submits that since ex-parte judgment and decree dated 31.10.2012 were obtained without effecting proper service on the applicants. Thus, the court below has rightly set-aside the said judgment and decree.

I have heard learned counsel for the parties and given careful thought to the facts of the case.

It reveals that petitioner filed a suit for declaration, mandatory injunction and permanent injunction against Khalsa Bus Service Barnala through its partner Rajwinder Singh and Mahinder Singh, claiming ownership and possession of Route Permit No.65/R.K/71 from Sangrur to Talwandi Sabo via Barnala and vice versa. Said suit was partly decreed on 31.10.2012, directing defendant No.1 to hand over the route permit in question along with other documents as well as tax clearance certificate to the plaintiff/petitioner. He was further restrained from alienating the said route permit and changing its nature. Thereafter, on 14.03.2013, legal representatives of partner Rajwinder Singh filed instant application under Order 9 Rule 13 CPC for setting-aside ex-parte judgment and decree dated 31.10.2012, on the ground that after death of Rajwinder Singh on 30.10.2011, they came to know about the ex-parte judgment and decree on 2.3.2013 from Karamjit Singh, Manager of Gobind Road Lines. Application was allowed by the trial court, subject to payment of Rs.4000/- as costs, observing that after death of Rajwinder Singh, his legal representatives filed application well within limitation. I find no legal infirmity with the order. It reveals that after death of Rajwinder Singh, his legal representatives were not impleaded as partners. The trial court has rightly allowed the application. The revision petition is, thus, without any merit and is hereby dismissed.

(RAJAN GUPTA)
JUDGE

April 27, 2017
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No