

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.8761 of 2016 (O&M)
Date of decision: 09.03.2017

Rehmat Khan (deceased) through LRs and another

... Petitioners

Vs.

Smt. Mariyam widow of Jan Mohammad

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Alok Mittal, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

CM-3258-CII-2017

Applicants seek permission to place on record the report of
Medical Board dated 03.07.2009.

Application is allowed, as prayed for.

CM stands disposed of.

CM-26530-CII-2016

Applicants seek exemption from filing true typed/certified copies
of Annexures P-1 to P-4 and A-1 & A-2.

Application is allowed, as prayed for. Exemption sought is granted.

CM stands disposed of.

CM-26531-CII-2016

Applicants seek leave of the Court to file the present revision

petition through the legal representatives of Rehmat Khan and Samsuddin.

After hearing the learned counsel for the applicants, instant application is allowed, for the reasons stated therein, however, subject to all just exceptions and only for the limited purpose of decision of the revision petition.

CM stands disposed of.

CR-8761-2016

Present revision petition, at the hands of legal representatives of the plaintiffs, is directed against the order dated 30.08.2016 (Annexure P-4) passed by learned trial Court, whereby application moved by the defendant-respondent under Order 9 Rule 13 of the Code of Civil Procedure ('CPC' for short) was allowed and the ex-parte order dated 20.04.2004 as well as ex-parte judgment and decree dated 17.03.2005, were set aside.

Heard learned counsel for the petitioners.

It has gone undisputed before this Court that respondent Smt. Mariyam widow of Jan Mohammad was living in the village of the petitioners themselves. It is also not in dispute that Smt. Mariyam-respondent is deaf and dumb by birth. Further, the petitioners have taken self-contradictory stand that initially, there was a refusal report and thereafter, defendant-respondent was sought to be served by way of proclamation as well.

A bare perusal of the impugned order passed by the learned trial Court, particularly the cogent findings recorded in para 13 thereof, would leave no manner of doubt that the learned trial Court very rightly appreciated the true facts of the case as well as the settled proposition of law, while allowing the application of defendant under Order 9 Rule 13 CPC, by passing the impugned order and the same deserves to be upheld.

It is the settled proposition of law that every Court of competent jurisdiction must make an endeavour to decide the litigation between the parties on its merits, instead of technicalities. It is also true that every party to the litigation must be granted due opportunity to put up its best case before the Court. While doing so, the learned Court of competent jurisdiction will be achieving twin objects namely; (i) to avoid multiplicity of litigation between the parties, and (ii) to do complete and substantial justice between the parties. In the matters like the present one, the learned Court must adopt a pragmatic approach instead of pedantic approach. That is what has been done by the learned trial Court, while passing the impugned order and the same deserves to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the present revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present revision petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

09.03.2017
vishnu

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No