

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.8415 of 2017 (O&M)
Date of Order: 04.12.2017

Sukhdev Singh

..Petitioner

Versus

Jaswant Kaur

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Narinder Kumar Awasthi, Advocate,
for the petitioner.

ANIL KSHETARPAL, J (Oral)

Petitioner who was defendant in a suit for damages filed by Jaswant Kaur on account of murder of her son is aggrieved of orders dated 01.05.2015 and 11.09.2017.

Petitioner was tried under Section 302 of the Indian Penal Code and convicted. Jaswant Kaur being mother filed a suit for damages. Defendant-petitioner appeared and engaged counsel. Counsel kept on appearing on behalf of the petitioner for a period of 4 years. Thereafter counsel pleaded no instructions. Defendant-petitioner was proceeded against ex-parte on 22.12.2004.

Ultimately, after appreciating the evidence available on the file, the suit was decreed on 08.09.2010.

Petitioner filed an application under Order 9 Rule 13 of the Code of Civil Procedure, which was dismissed by the trial Court. The order was upheld in appeal.

I have heard learned counsel for the petitioner at length and with his able assistance gone through the orders passed by the Courts

below.

Learned counsel for the petitioner has submitted that once the counsel had pleaded no instructions, it was the duty of the Court to have served a notice to the defendant. He has submitted that since the petitioner was confined in jail, therefore, petitioner could not defend the suit.

It is not in dispute that the petitioner was in jail when he was served with the notice. He engaged a counsel. Counsel appeared for him for a period of 4 years. Counsel pleaded no instructions and ex-parte proceedings were taken against the petitioner on 22.12.2004. Petitioner never took any trouble to either enquire from counsel or from the Court as to what has happened in the civil Court. After the decree was passed, an application was filed under Order 9 Rule 13 of the Code of Civil Procedure.

Taking into consideration the aforesaid facts, which are apparent on record, this Court does not find any good ground to interfere with the orders passed by the Courts below, dismissing the application under Order 9 rule 13 CPC.

The revision petition is dismissed.

December 04, 2017
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(ANIL KSHETARPAL)
JUDGE

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