

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

CR No.3304 of 2015
Date of decision : 05.04.2018

Bed Ram through his LRs Mahendri

...Petitioner

Versus

Lakhi Ram Nagar and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kanwaljit Singh, Sr. Advocate with
Mr. P.K. Dwivedi, Advocate for the petitioner.

Mr. Amit Kaith, Advocate for respondent No.1.

ANIL KSHETARPAL, J. (ORAL)

The defendant-petitioner is in the revision petition against the orders passed by the trial Court dated 20.05.2014 confirmed in appeal by the learned First Appellate Court vide order dated 03.04.2015 dismissing the application under Order 9 Rule 13 CPC for setting aside the ex parte decree.

Both the Courts have found that the defendant-petitioner has not proved any reason for non-appearance once he was served and had also engaged counsel. Only argument of the learned counsel is that on 05.12.2003, the case was adjourned to 07.01.2004, however, the file was taken up on 03.01.2004 as the Presiding Officer was to go on leave. It was adjourned to 02.03.2004. Counsel has submitted that since the Court did not issue notice to the counsel for the defendant-petitioner, therefore, ex parte

proceedings were wrongly taken against him. It is well settled practice that whenever a Presiding Officer of a Court is to go on leave, the Presiding Officer takes up a file on the previous date and adjourns the cases and a list is displayed outside the Court informing everyone including the lawyers and the litigants about the next date fixed in the case. There is no practice of issuing any separate notice to the Advocates if the case has been taken on a previous date.

Still further 07.01.2004 was the date according to the defendant-petitioner for which the case was adjourned. The case was decided ex parte on 14.10.2005. During this period of almost two years, no steps were taken either by the defendant-petitioner or by her counsel. The application for setting aside the ex parte decree came to be filed on 27.10.2006. On the previous date of hearing in this Court, learned Senior Counsel was requested to inform the Court as to what happen in the suit which was filed by the predecessor-in-interest of the defendant-petitioner. He has stated that he is unable to get any information.

On the other hand, learned counsel for respondent No.1 has pointed out that even that suit was dismissed.

From the facts narrated above, it is apparent that the defendant-petitioner is taking the litigation too casually. It is not in dispute that the plaintiff purchased the property from Late Sh. Bed Ram-defendant in the present case through the sale deed in the year 1991. The aforesaid registered sale deed has been challenged by filing the counter claim.

Still further, defendant-petitioner previously also was proceeded against ex parte, however, Court subsequently set aside the same

showing indulgence. Once again, the defendant-petitioner was proceeded ex parte and the application was filed after a period of almost three years. No application for condonation of delay was filed.

In view thereof, there is no scope for interference.

Revision petition is dismissed.

05.04.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No