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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3712-2018 (O&M)

Date of decision : 30.05.2018

Prabhjeet Singh

... Petitioner(s)

Versus

Gurnam Singh and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Prateek Sodhi, Advocate
for the petitioner.

AMIT RAWAL, J. (ORAL)

Prayer in the revision petition under Article 227 of the constitution of India for issuance of appropriate directions to the Ld. Trial Court to expeditiously decide the application dated 11.09.2017 (Annexure P-5) moved along with application (Annexure P-6) under Order 9 Rule 13 of the Code of Civil Procedure for setting aside the *ex parte* judgment and decree dated 29.03.2017 (Annexure P-4) in a suit titled as **“Gurnam Singh V/s Balraj Singh and others”** on account of the reasons mentioned therein.

Learned counsel for the petitioner submits that the petitioner-plaintiff instituted the suit dated 25.08.2015 against Gurnam Singh for declaration to the effect that the plaintiffs are joint owners in exclusive possession of plot having area of 605 sq. fts. situated in area of Kala Ghanupur, Sub Urban, Abadi Hargobind Nagar Teshil and District Amritsar, on the basis of two different transfer of title deeds dated 24.03.2015 and 13.05.2015 duly executed by the previous owner, namely, S. Balraj Singh in favour of the plaintiff to the extent of 151.25 sq. yards and

Kashmir Kaur. Along with the aforementioned suit, an application for interim injunction restraining the Gurnam Singh from interfering into peaceful possession and creation of third party rights was also submitted. The trial Court vide order dated 26.08.2015 (Annexure P-2) granted the *ex parte* status quo order. However, the defendant, in the aforementioned suit, filed written statement 27.09.2015 (Annexure P-3). Without knowledge and notice of the petitioner, Gurnam Singh filed another suit on 17.05.2016 for declaration to the effect that he is owner in possession of the same very property against the petitioner, wherein the plaintiff in the first suit and defendant in the second suit, has been proceeded *ex parte*. An *ex parte* judgment and decree dated 29.03.2017 came to be passed. On acquiring the knowledge, an application under Order 9 Rule 13 CPC (Annexure P-5) along with application for interim stay has been submitted, but the Court below had not addressed the application, thus, urges this Court for issuance of appropriate directions as indicated above for deciding the application on the next date of hearing i.e. 04.07.2018.

I have heard learned counsel for the parties and appraised the paper book.

In the zimini orders listing the application under Order 9 Rule 13 CPC commencing from 21.09.2017, on the next date i.e. 06.12.2017, one Mr. M.S. Bhati, Advocate, had filed vakalatnama on behalf of Gurnam Singh and thereafter, the matter was posted for non-filing the reply, which was not filed on number of occasions and ultimately, the trial Court vide order dated 26.02.2018 struck off the defence for filing the reply to the application under Order 9 Rule 13 CPC as well as to the interim application.

The matter was adjourned on 06.04.2018. On the adjourned date, an

application for recalling of the order dated 26.02.2018, vide which, defence was struck off, was moved seeking permission of the Court to file the reply. The matter was posted for 25.04.2018. Reply to the aforementioned application was filed on behalf of the respondent and the matter was posted for 16.05.2018. The matter could not be taken up on 16.05.2018 as the Officer was availing joining leave and the matter was taken up on 11.05.2018 and posted for 04.07.2018. It is noticed that the purpose of filing the interim application along with the application under Order 9 Rule 13 CPC would be frustrated, for, the respondent-plaintiff had been intentionally delaying the adjudication of the application. According to the submissions of Mr. Sodhi, the status quo order passed in the suit filed by the petitioner is still in operation.

Keeping in view the aforementioned facts, I deem it appropriate to dispose of the present revision petition with a direction to the Civil Judge (Junior Division), who ceased of the application in a suit titled as “Gurnam Singh V/s Balraj Singh and others” to decide the application for interim stay on the adjourned date i.e. on 04.07.2018.

It is made clear that in case, the application is not decided on such date or within few days thereafter, the comments of the Presiding Officer for not deciding the same be sent to this Court.

30.05.2018

Yogesh Sharma

(AMIT RAWAL)
JUDGE

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Whether speaking/reasoned Yes/ No

✓

Whether Reportable Yes/ No