

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

**CR No.5042 of 2015 (O&M)
Date of decision : February 26, 2018**

Harjap Singh

..... Petitioner

Versus

Jagdish Chander Sharma and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Naveen Bawa, Advocate for the petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Respondent Nos.1 and 2 are stated to have died.

Learned counsel for the petitioner states that he is not aware about the whereabouts of legal heirs of respondent Nos.1 and 2. Therefore, the present petition qua respondent Nos.1 and 2 stands dismissed.

Heard.

It comes out that respondent Nos.3 to 5 have been duly served.

A perusal of the file shows that the plaintiff-petitioner has filed a suit for partition. He did not produce any evidence despite last opportunity. Consequently, he was granted another last opportunity for 08.01.2009 to produce his evidence, subject to payment of costs of ₹500/-. On that day, the plaintiff-petitioner has failed to put in appearance and consequently, the suit was dismissed for want of prosecution under Order IX, Rule 8 CPC, 1908. The trial Court has taken the view that despite six effective opportunities, the plaintiff-petitioner has failed to lead any evidence, therefore, his absence was intentional.

Learned counsel for the petitioner states that the plaintiff-petitioner is only to make his own statement and exhibit some documents and no other evidence is to be produced. Therefore, he should be given one more opportunity to adduce his evidence, subject to payment of costs.

Considering the facts and circumstances of the case and also the fact that the suit was dismissed for want of prosecution, under Order IX, Rule 8 CPC, 1908, therefore, the impugned order is set aside and the suit is restored to its original number. Let the presence of all the defendants be procured and thereafter, the plaintiff-petitioner be given one last opportunity to adduce his evidence, subject to payment of costs of ₹20,000/- to be payable to the defendants in equal shares.

As such, the present revision petition is allowed.

(KULDIP SINGH)
JUDGE

February 26, 2018

sarita

Whether speaking / reasoned Yes

Whether Reportable: No