

CR No.571 of 2018

{1}

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

CR No.571 of 2018

Date of decision:30.10.2018

Rajah Rajvinder Singh

... Petitioner

Vs.

Reeta Devi and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Amit Dhawan, Advocate, for the petitioner.

Mr. Ashim Aggarwal, Advocate, for respondent no.1.

AMIT RAWAL J. (Oral)

The present revision petition is directed against the impugned order dated 08.01.2018 (Annexure P-6), whereby, an application filed by the petitioner under Order 9 Rule 13 of Code of Civil Procedure for setting aside the ex parte proceedings dated 16.04.2016, has been dismissed.

Mr. Amit Dhawan, learned counsel appearing on behalf of the petitioner submitted that an ex parte judgment and decree dated 26.07.2010 was passed by the Civil Judge in favour of the petitioner. In those proceedings, the defendant filed an application under Order 9 Rule 13 CPC on 25.11.2013, wherein notice of the aforementioned application was issued to all the plaintiffs and the petitioner has been proceeded against ex parte. No harm and prejudice would be caused to the respondent in case the petitioner is allowed to join the proceedings in the pending application.

Mr. Ashim Aggarwal, learned counsel appearing on behalf of respondent no.1 submitted that earlier the stand of petitioner along with

other relatives was common. Thereafter, the petitioner had no cordial relation with them and in the application under Order 9 Rule 13 CPC, the petitioner cross-examined the defendant, who is also an NRI. It is an attempt to harass as, for, cross-examination, the defendant has to come back again and thus, urged this Court for dismissal of the revision petition by upholding the impugned order.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Amit Dhawan, for, both the parties had been independently delaying the adjudication of the lis. Earlier the defendant and now one of the plaintiffs, who has been proceeded ex parte in the application under Order 9 Rule 13 CPC filed by the defendant.

As per the contention of the counsel, the defendant has been cross-examined, in the application, by other relatives of the petitioner and therefore, in such circumstances, it would not be in the fitness of things to allow the petitioner to cross-examine the defendant again as the line of defence in the application is identical but can be permitted to join the proceedings from the stage it is slated for.

Resultantly, the impugned order is set aside and the revision petition is disposed of in the aforementioned terms.

(AMIT RAWAL)
JUDGE

October 30, 2018

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No