

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

CR No.7023 of 2016
Date of decision : 24.05.2018

Sunehri Devi and others

...Petitioners

Versus

Ravinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Partap Singh, Advocate for the petitioners.

Mr. Parminder Singh, Advocate for respondent No.1.

Mr. Saurabh Bajaj, Advocate for respondent Nos.2 to 7.

ANIL KSHETARPAL, J. (ORAL)

Defendant Nos.1 to 10 are the petitioners in this Court in the revision petition against the order dated 07.10.2016 passed by the trial Court.

A suit for declaration was filed by Ravinder Singh-plaintiff claiming that in a family settlement, property had fallen to his share. Defendant Nos.1 to 10 filed a written statement and admitted the family settlement. However, while replying to para 6 of the plaint, it was only mentioned that the assertions are wrong and denied. Ultimately, while replying to the prayer, defendant Nos.1 to 10 had left it to the Court to pass an appropriate order. After filing the written statement, defendant Nos.1 to 10 stopped appearing and the entire evidence was led and when the case was fixed for the rebuttal and arguments, the present application was moved for setting aside the ex parte proceedings. The Court noted that defendant Nos.1 to 10 were proceeded against ex parte on 11.01.2016 and the application has been moved on 15.09.2016. The Court has further found that as per Article 123 of the

Limitation Act, 1963, limitation for filing the application for setting aside the ex parte proceedings is 30 days. Hence, the application was dismissed. This is the order which has been challenged before this Court.

This Court has heard the learned counsel for the parties at length and with their able assistance gone through the impugned order and other documents filed.

Learned counsel for the petitioners-defendant Nos.1 to 10 had submitted that no prejudice would be caused to the plaintiff, if the defendants are granted one opportunity to lead their evidence.

On the other hand, learned counsel for the respondents-plaintiff has pointed out that defendant Nos.1 to 10 cannot be permitted to lead evidence against their pleadings. Once the claim made in the suit is admitted in the written statement, the defendants are now only trying to delay the trial of the case.

This Court has considered the submissions. The filing of the written statement is not being disputed. Although, some allegations have been made against the counsel engaged by them, however, the written statement is filed by all the 10 defendants (petitioners herein). The trial has now reached at the fag end. There is no application for the amendment of the pleadings.

In view thereof, there is no scope for interference with the impugned order passed.

Revision petition is dismissed.

24.05.2018

Pawan

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No