

270
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-7261-2017 (O&M)
Date of decision : 19.01.2018

Kamla Rani through LRs **Petitioners**

Versus

Ravinder Kumar Behl **Respondent**

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

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

Mr. Keshav Sharma, Advocate for respondent.

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)

Impugned in the present revision petition is the order dated 29.5.2015, passed by learned Civil Judge (Junior Division), Ludhiana whereby the defence of the petitioners/defendants was struck off and further impugned is the order dated 19.09.2017, passed by learned Civil Judge (Junior Division), Ludhiana, whereby an application filed by petitioners-defendants on 28.3.2017 for recalling the order dated 29.5.2015 was dismissed.

It comes out that the defence of the petitioners-defendants was struck off initially by the Court on 29.5.2015 for non filing of the written statement within the stipulated time despite grant of adjournments and for non-payment of costs. The said order was not challenged before any Court and after a gap of two years when the same had become final, suddenly on 28.3.2017, petitioners-defendants filed the application before the trial Court for recalling of the said order, without mentioning the Section under which it was filed, which was otherwise not maintainable before the said

Court. The entire blame was put on their counsel Shri N.K.Aadia, claiming that he kept them in dark.

Learned Civil Judge, (Junior Division), Ludhiana has observed as under: -

Vide order dated 24.3.2014, the defendants No. 2 and 3 were proceeded against ex-parte. Thereafter, on 27.5.2015, power of attorney on behalf of defendants No. 2 and 3 was filed by Shri N.K.Aadia, Advocate while the application for setting aside the ex-parte proceedings dated 16.4.2014 was filed on 13.2.2015. Thereafter, vide order dated 8.5.2015, the ex-parte proceedings against defendants No. 2 and 3 were set aside subject to costs of Rs. 1,000/-. On the next date of hearing i.e. 29.5.2015, neither the written statement was filed nor costs were paid by defendants No. 2 and 3, due to which the defence of the defendants was struck off. It is the said order dated 29.5.2015 that defendants No. 2 and 3 have sought to be set aside.

I am of the view that the revision petition filed against the order dated 29.5.2015, passed by learned Civil Judge (Junior Division), Ludhiana has become time barred and the order has become final. The subsequent application before the learned Civil Judge (Junior Division), Ludhiana to recall the order was filed on 28.3.2017, just to make the limitation from the passing of the said order. The said application was otherwise not maintainable. As such, there is no ground to interfere in the said order.

Dismissed.

(KULDIP SINGH)
JUDGE

19.01.2018
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Whether speaking / reasoned	Yes
Whether Reportable:	No