

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 8423 of 2016 (O&M)

Date of decision: 18.04.2018

Mahender Partap Singh

...Petitioner

V/s.

Mandir/Murati Thakur Ji and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

Present: Mr. Ashwani Chopra, Sr. Advocate with
Mr. Sushil Jain, Advocate for the petitioner.

Ms. Indu Bala, Advocate for
Mr. Aditya Jain, Advocate
for respondents No. 1, 4 and 5.

KULDIP SINGH, J. (Oral)

Impugned in the present revision is the order dated 22.11.2016 (Annexure P-9) passed by learned Civil Judge (Junior Division), Faridabad vide which application filed by defendant No. 1 for setting aside ex-parte proceedings and restoration of application under Order 7 Rule 11 CPC, 1908 was dismissed. It comes out that the suit for declaration and permanent injunction and possession is pending in the Court of Civil Judge (Junior Division), Faridabad since the year 2009. On 12.01.2016, defendant No. 1 did not appear and was proceeded against ex-parte. The case was adjourned to 21.01.2016. On the said date, an application filed under Order 7 Rule 11 CPC was dismissed on the premise that defendant No. 1 had been proceeded against ex-parte. I am of the view that there is only one default on the part of defendant No. 1. He had pleaded that counsel had noted the wrong date in the diary. Therefore, the Court cannot be so harsh to debar defendant No. 1 from contesting the suit. At the most, defendant No. 1

could be penalised for non-appearance. As such the impugned order is set aside. Ex parte proceedings against defendant No. 1 are set aside and he is allowed to join the proceedings. Consequently, the impugned order dated 21.01.2016 dismissing the application under Order 7 Rule 11 CPC filed by defendant No. 1 for want of prosecution, is also set aside. However, this is subject to cost of Rs. 2,000/- to be paid to the plaintiff.

Civil revision is allowed.

Since the main petition has been allowed, the miscellaneous application pending, if any, stands disposed of.

(KULDIP SINGH)
JUDGE

18.04.2018

Divyanshi

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No