

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

114

CR No.926 of 2018 (O&M)
Date of Decision : 12.02.2018

Anil Kumar and another

..... Petitioners

Versus

Narender Kumar

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

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

AJAY TEWARI, J. (Oral)

This petition has been filed against the concurrent judgments of the Courts below passing an order of eviction against the petitioners. Respondent had filed the petition for eviction on the ground of non-payment on 25.07.2016.

The petitioners appeared and sought various opportunities to file reply. When they did not file a reply despite last opportunity they were granted one more opportunity to file reply along with costs of Rs.1,000/-. On the date in question neither the petitioners appeared nor they paid the costs nor they filed reply. In was in those circumstances that the courts below proceeded against them ex-parte. The respondent led evidence and the petition was ultimately allowed on 01.04.2017. An application was filed on 01.12.2017 after 8 months of the decision of the rent petition pleading that they had engaged a counsel and it was only because of the

decided ex-parte. In reply the respondent pleaded that infact Ms. Kusum Sharma, Advocate had never appeared on behalf of the petitioners but one Shri Vikash Verma, Advocate had appeared on their behalf and further argued that there was no ground to justify the setting aside of ex-parte judgment.

The trial Court held that the petitioners had failed to prove that they were proceeded against ex-parte despite their due diligence or even due to the negligence of their counsel and consequently dismissed the application. Learned counsel has argued that during that time the father of the petitioners was hospitalized and unfortunately also died. To my mind that would not justify non appearance and non payment of costs.

Petition stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

12.02.2018

Pooja sharma-I

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No