

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR-176--2019
Date of Decision: 21.01.2019

MADAN LAL GIRDHAR SINCE DECEASED THROUGH LRS
RABIA

..... Petitioner

Versus

RAJ KUMARI AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Umesh Kumar, Advocate,
for the petitioner.

Mr. Parvesh Sachdeva, Advocate
for the respondents.

SUDIP AHLUWALIA J. (ORAL)

This revision is directed against the impugned order dated 05th, December, 2018 passed by the Ld. Additional Civil Judge(Senior Division) Fazilka in Execution No. 215 of 2017, with the prayer to set aside the *ex parte* order passed against her on 20th July, 2008.

2. Heard. It transpires that the decree in favour of the respondents-decree holders was passed on 22th May 2017. In this view of the matter at the outset it may be observed that the judgment debtors had no automatic right to be notified about the execution proceedings which were within time.

3. Further submission is that the impugned judgment and decree passed against the defendants was obtained by the decree holders without effecting any service of the summons upon the

petitioners/judgment debtors. For that purpose, the appropriate remedy happens to be an application under Order 9 Rule 13 of the CPC which has to be decided by the Ld. Trial Court on its own merits. Ld. Counsel for the petitioner submits that such application under Order 9 Rule 13 of the CPC is now pending before the Ld. Court below for the 28th of this month. In the given circumstances there is no justification for this Court to interfere with the impugned order at this stage.

4. It is left for the Trial Court to take its own independent decision on merits on the pending applications under Order 9 Rule 13 of the CPC more particularly when one of the co-defendants/judgment debtors namely Nishant Girdhar, has already challenged the impugned judgment and decree in his independent appeal, stated to be pending before the Ld. Additional District & Sessions Judge at Fazilka.

5. Dismissed.

21.01.2019

Sanjiv

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No