

CR-3814-2015 (O&M)

201

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

CR-3814-2015 (O&M)

Date of decision : 14.01.2019

Dharma @ Dharam Singh Singhmar (deceased) through
LRs and others

... Petitioners

Versus

Pala Ram and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.Ashish Verma, Advocate
for the petitioners.

Mr. Lokesh Sharma, Advocate
for respondent Nos.1, 2, 5 to 8, 11, 13 to 17 and 19.

AMIT RAWAL, J. (ORAL)

The present revision petition is directed against the impugned orders dated 22.01.2013 and 06.04.2015 (Annexure P-6 and P-9), whereby the petitioners-defendants 1 to 3 and 9 to 15, in a suit for partition, were proceeded *ex parte*.

Learned counsel for the petitioners-defendants submitted that they had engaged Mr. Bhagat Singh Sheokand, Advocate, who had appeared and filed written statement on 07.08.2012, but thereafter, did not appear and were proceeded *ex parte* on 22.01.2013 (Annexure P-6). Counsel informed the party regarding *ex parte* proceedings only in the year 2015 and accordingly, an application (Annexure P-7) was filed, which has erroneously been dismissed being time-barred. Though the suit is still at the initial stage, no harm and prejudice would be caused, in case, the defendants are granted one opportunity to defend the suit, subject to any terms and

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conditions, which this Court may deem fit appropriate.

Learned counsel for respondent Nos.1, 2, 5 to 8, 11, 13 to 17 and 19, opposed the prayer and submitted that the entire blame cannot be fastened upon the lawyer as it is the duty of the contesting defendants to ascertain the pendency of the suit. Having failed to do so, ignorance of law cannot be said to be a bliss, thus, urges this Court for dismissal of the present revision petition.

I have heard learned counsel for the parties, appraised the paper book and of the view that there is force and merit in the submissions of Mr. Verma. No doubt the application was filed in the year 2015, the approach was lackadaisical and tardy, but it is not yet decipherable whether the blame was fastened upon the lawyer or the party. The trial Court should not have dismissed the application without noticing all these facts, instead laid the focus upon the adjudication of the suit. However, in order to advance justice and prevent miscarriage of justice, I deem it appropriate to set aside the impugned orders, under challenge, by granting one opportunity to the petitioners-defendants to file the written statement on or before 29.01.2019 i.e. next date fixed before the Court below and thereafter, the trial Court shall decide the matter, in accordance with law. Accordingly, the present revision petition stands allowed subject to the payment of costs of ₹5,000/-, which shall be condition precedent.

14.01.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned	Yes/ No
Whether Reportable	Yes/ No