

In the High Court of Punjab and Haryana at Chandigarh

209

CR No. 4826 of 2016

Date of decision: 17.12.2019

HARJEET SINGH

.....petitioner

Versus

TEHAL SINGH AND ANR

.....respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Vipin Mahajan, Advocate,
for the petitioner.

Mr.T.P.S.Tung, Advocate
for the respondents.

RAJ MOHAN SINGH, J.(oral)

While issuing notice of motion on 12.12.2016,
following order was passed:-

"CM No.24941-CII of 2016

Heard.

Allowed as prayed for.

Annexure P-7 and P-8 are taken on record
subject to just exceptions.

Disposed of accordingly.

CR No.4826 of 2016

Counsel for the petitioner has submitted that it is
true that in the affidavit filed by the petitioner by way

of examination in chief, there is no refernece to his failure to appear either in person or through counsel on 11.11.2013 but the very fact that the application for restoration of application under Order 9 Rule 13 of the Code of Civil Procedure, 1908 (in short 'CPC') dismissed for want of prosecution was filed just within 10 days from order dated 11.11.2013, it is sufficient to show that the petitioner was interested to pursue the application but has been dismissed due to wrong notice of date.

Notice of motion for 2.3.2017.”

On 30.11.2018, learned counsel for the respondents submitted that the sale deed had already been executed in favour of decree holder on 17.10.2016, but the possession of the suit land has not been delivered to him despite no stay has been granted by the Court. The ex parte judgment and decree in a suit for specific performance was passed by the trial Court on 12.5.2011. Application under Order 9 Rule 13 CPC was filed by the judgment debtor-petitioner on 12.10.2011. The said application was pending for 11.11.2013, but due to wrong recording of date as 21.11.2013, the same was dismissed in default on 11.11.2013. The application for restoration of the application under Order 9 Rule 13 CPC came to be filed only on 22.11.2013 and vide the impugned order, the application for

restoration was also dismissed by the trial Court.

Today, learned counsel for the respondents states that even possession has been delivered to the decree holder and no execution is pending as on date.

In view of statement made by learned counsel for the respondents, this revision petition is dismissed as having been rendered infructuous. However, liberty is granted to the petitioner to file an appropriate application for revival of the revision petition in case statement of fact made by the learned counsel for the respondents is found to be incorrect.

December 17, 2019
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/Speaking **Yes/No**

Whether reportable ***Yes/No***