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

CR No. 7371 of 2018

Date of Decision: 17.05.2019

Kuldeep Singh

-Petitioner

Vs

Nachhattar Singh

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Gaurav Singla, Advocate, for
Mr. Ghulam Nabi Malik, Advocate,
for the petitioner.

Mr. Gaurav Rana, Advocate,
for the respondent.

RAJ MOHAN SINGH, J.

1. Petitioner has preferred this revision petition against the order dated 03.12.2016 passed by Additional Civil Judge (Senior Division), Jagraon vide which application for restoration of application under Order 9 Rule 13 CPC was dismissed by the Additional Civil Judge (Senior Division), Jagraon. An appeal filed against the said order was also dismissed by the Additional District Judge, Ludhiana on 27.09.2018 being not maintainable.

2. Perusal of the record would show that a suit for recovery of Rs.4 lacs was filed by the plaintiff against the petitioner. Petitioner-defendant was proceeded against exparte and exparte judgment and decree dated 05.04.2013 was

passed against the defendant-petitioner.

3. In execution of the aforesaid decree, judgment debtor did not appear in the Court and he was proceeded against exparte. An application under Order 9 Rule 13 CPC filed by the judgment debtor was fixed on the same day and the application was dismissed in default. The application filed by the judgment debtor for staying the proceedings under Order 21 Rule 66 CPC was dismissed.

4. Warrants of sale of the property of the judgment debtor were issued and schedule of proceedings i.e. notice, munadi and auction were also finalized vide order dated 24.05.2016. Petitioner filed an application for restoration of the application under Order 9 Rule 13 CPC on 26.10.2016 i.e. after a period of five months. No sufficient reasons have been pleaded for seeking condonation of delay of more than five months in moving the application for restoration of the application under Order 9 Rule 13 CPC.

5. Perusal of the order would also show that against exparte judgment and decree dated 05.04.2013, the application under Order 9 Rule 13 CPC came to be filed on 20.08.2013. The said application remained pending for about three years before dismissal of the same in default on 24.05.2016.

6. An application for restoration of the application was filed on 26.10.2016 i.e. after a period of more than five months.

The said application was dismissed on 03.12.2016 by Additional Civil Judge (Senior Division), Jagraon.

7. Instead of filing any revision petition against the order dated 03.12.2016, petitioner unnecessarily filed appeal before the Additional District Judge, Ludhiana. The said appeal has been dismissed vide order dated 27.09.2018 on the ground of maintainability.

8. The auction of the property is fixed for 20.06.2019. From the proceedings on record, it can be seen that the petitioner has derelicted at every stage. Petitioner has not filed any objection under Order 21 Rule 58 CPC, under Order 21 Rule 64 CPC, under Order 21 Rule 66 CPC and under Order 21 Rule 89 CPC at any point of time.

9. Petitioner remained silent spectator throughout the proceedings. The proceedings have reached the stage of auction which is to be held on 20.06.2019. Such an attempt of the petitioner cannot be appreciated.

10. Owing to the conduct of the petitioner, I find no justification to interfere in this revision petition.

11. This revision petition is accordingly, dismissed.

17.05.2019

Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

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