

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

**CR No.931 of 2019(O&M)
Date of Decision: 07.02.2019**

Om ParkashPetitioner
Versus
Nishan Singh and anotherRespondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Gautam Dutt, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.(Oral)

[1]. Learned counsel for the petitioner contends that both the parties have amicably resolved their differences in a suit for declaration challenging the decree dated 27.05.2015 on the basis of fraud. The fraud was viz-a-viz the defendant and the State Exchequer was not involved.

[2]. At this stage, Mr. Raghav Goel, Advocate for Mr. Harkesh Manuja, Advocate appears on behalf of the respondents and admits the claim of the petitioner that alleged fraud was in respect of agreement to sell dated 29.08.2012.

[3]. The cheating or fraud (if any) was compoundable at the instance of the plaintiff, for which the parties can amicably enter into resolution of dispute. In fact, both the parties have resolved

their dispute and the Court was under legal obligation to decide the suit on the basis of compromise. When the State is not party to the suit and both the parties are not at issue, the Court is under legal obligation to dispose of the suit in terms of Order 12 Rule 6 CPC.

[4]. In **Uttam Singh Dugal and Co. Ltd. Vs. United Bank of India, 2000(4) RCR (Civil) 89**, the Hon'ble Apex Court has held that where a claim is admitted, the Court has jurisdiction to pass a judgment and decree on admitted claim. The object of the Rule is to enable the party to obtain a speedy judgment at least to the extent of the relief to which the plaintiff is entitled on the basis of admission of the defendant. If the admission for passing the judgment is based on pleadings itself, then it is unnecessary to examine as to what kinds of admissions are covered by Order 12 Rule 6 CPC. In the objects and reasons set out while amending Order 12 Rule 6 CPC, it is stated that where a claim is admitted, the Court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The meaning of the Rule should not be narrowed down as the object is to enable a party to obtain speedy judgment on plain admission made by the defendant. The judgment has to be passed on clear admission of facts. The admissions are of many kinds. Admissions are generally arise when a statement is made

by a party in any of the modes provided under Sections 18 to 23 of the Evidence Act, 1872.

[5]. Both the parties have admitted the factum of compromise. The defendants have admitted the claim of the plaintiff. In view of above, it is wholly unnecessary for the Court to examine any evidence. The aforesaid view was reiterated by the Hon'ble Apex Court in subsequent judgment in **Karam Kapahi and others Vs. M/s Lal Chand Public Charitable and another, 2010(2) RCR (Civil) 683**, wherein it was endorsed that a party can press for judgment on admission of other party as a matter of legal right. The provision is enabling, discretionary and permissive, though the same is neither mandatory nor pre-emptory in nature. In 54th Law Commission Report, an amendment was suggested to enable the Court to give a judgment not only on the application of a party, but on its own motion. The amendment was brought about to give wider sweep by empowering the Court to use its *ex debito justitiae* i.e debt of justice. The thrust of the amendment is to ensure that in an appropriate case, a party on the admission by the other party can press for judgment as a matter of legal right. However, the Court always retains its discretion in the matter of pronouncing judgment. If the provision of Order 12 Rule 1 CPC is compared with Order 12 Rule 6 CPC, it becomes clear that the provision of

Order 12 Rule 6 CPC is wider in its application than the provision of Order 12 Rule 1 CPC which is limited to admission by pleading or otherwise in writing, but in Order 12 Rule 6 CPC, the expression 'or otherwise' is much wider in view of words used therein.

[6]. In view of aforesaid position, since both the parties are not at issue, therefore, the trial Court is not justified in refusing to pass a judgment on admission by the defendant. In view of above, I deem it appropriate to set aside the impugned order. Consequently, this revision petition is allowed. Normal consequences to follow.

07.02.2019

*Prince***(RAJ MOHAN SINGH)
JUDGE****Whether reasoned/speaking
Whether reportable****Yes/No
Yes/No**