

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 2886-2019(O&M)

Date of decision: 03.05.2019

Joginder Singh

.....Petitioner

versus

Chajju Ram and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Arun Jain, Senior Advocate with
Mr.Abhishek Dhull, Advocate for the petitioner

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J. (Oral)

Impugned in the present revision is order dated 17.12.2018, passed by learned Additional Civil Judge (Senior Division), Guhla, vide which, application filed by the petitioner -applicant-Joginder Singh son of Mukhtiar Singh under Order IX Rule 13 CPC for setting aside ex-parte judgment and decree dated 20.12.2010, passed in Civil Suit No.154 of 2005, was dismissed. Also impugned is the order dated 6.2.2019 passed by learned District Judge, Kaithal vide which appeal against the said order was dismissed.

I have heard learned counsel for the petitioner and have carefully gone through the file.

Facts of the case are that Chajju Ram and others filed a Civil

Suit for possession by way of redemption of suit land. In the said case one Maan Singh son of Mukhtiar Singh was impleaded as defendant no.19 along with his brothers and sisters. In the said case, defendant no.1, 3 to 20, after being served through publication, were proceeded against ex-parte on 14.1.2006. Suit was ultimately decreed.

Joginder Singh has filed an application on the ground that there is no son of Mukhtiar Singh in the name of Maan Singh and that he was not served in the said case.

Learned counsel for the petitioner contends that both the Courts below have held that infact Maan Singh and Joginder Singh are same person. The perusal of original judgment and decree of the trial Court dated 20.12.2010 shows that it was neither pleaded nor stated before Civil Court that Maan Singh is also known as Joginder Singh.

Since, Joginder Singh was not party, an application for setting aside ex-parte judgment and decree on his behalf, is not maintainable.

So far as findings that Maan Singh and Joginder Singh are same person, these are beyond the scope of pleadings and shall not be binding on the petitioner, if the decree is sought to be executed against the petitioner, the petitioner in the execution proceedings, can always file objections stating that decree is not binding on him. It is for the Executing Court to take decision in that regard.

With above noted observations, the present revision petition is disposed of.

03.05.2019
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No