

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

CR-3265-2019 (O&M)
Date of decision: 16.05.2019

Balbir Singh

...Petitioner

Versus

Lovedeep Singh and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Ms. Manjeet Kaur, Advocate for the petitioner.

H.S. MADAAN, J. (Oral)

Plaintiff Balbir Singh had filed a suit for grant of permanent injunction against defendants Jagsir Singh and Lovedeep Singh. Notice of the suit was given to the defendants. Defendant No.1 was proceeded against ex parte, since, he had not appeared despite service, whereas, defendant No.2 minor had appeared through her mother as guardian and filed written statement, contesting the suit. Issues on merits were framed and when the case was fixed for evidence of plaintiff, defendant No.2 had also absented from the Court and was proceeded against ex parte. The plaintiff had brought evidence on record, however, Civil Judge (Jr. Divn.) Moga, vide judgment and decree dated 13.08.2014, decreed the suit partly with costs, declaring that transfer deed Ex. P1 dated 21.10.2005 bearing No.2786 executed by defendant No.1 in favour of defendant No.2 was void qua the rights of the plaintiff to recover his amount due towards defendant No.1. Defendant No.2 had appeared in the Court and moved an

application for setting aside ex parte judgment and decree dated 13.08.2014. Notice of that application was given to plaintiff who contested the application, however, vide order dated 11.10.2017, that application was dismissed. Defendant No.2 filed an appeal against that order before the Court of District Judge, Moga, which was assigned to Addl. District Judge, Moga, who vide order dated 19.01.2019, accepted the appeal, set aside the impugned order passed by the Court below, framed issues and remanded the case to the trial Court for fresh decision.

The plaintiff is feeling aggrieved by the said order and has challenged the same, by way of filing the present revision petition before this Court.

I have heard learned counsel for the petitioner besides going through the record and I find that the impugned order is well reasoned, based on proper appraisal of evidence and correct interpretation of law. It has to be taken note of that defendant No.2 is a minor. It is duty of the Court to watch interest of the minor. Though mother of the minor had appeared in the Court on his behalf and filed written statement, contesting the suit but subsequently, nobody had appeared in the Court on behalf of defendant No.2, as such, the trial Court passed an order that defendant No.2 was proceeded against ex parte and then decided the suit. Application for setting aside ex parte judgment and decree had been dismissed which order was challenged in appeal. Learned Addl. District Judge, Moga had found sufficient ground to set aside that order, frame additional issues and then remand the case back to the trial Court for

fresh decision by affording three effective opportunities to both the parties to lead evidence and then to decide the application expeditiously within a period of six months, keeping in view the fact that the trial Court had passed the decree against minor without appointing his guardian.

I do not find any illegality or perversity in the impugned order, much less apparent on the face of it, which might have called for interference by this Court while exercising revisional jurisdiction. There being no merit in the revision petition, the same stands dismissed.

16.05.2019
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(H.S. MADAAN)
JUDGE

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