

111

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

**Civil Revision No.6091 of 2019 (O&M)
Date of Decision: 26.09.2019**

Mange RamPetitioner
Vs
Balbir Singh and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Vijay Kumar Sheoran, Advocate
for the petitioner.

RAJ MOHAN SINGH, J.

[1]. Petitioner has preferred this revision petition against the order dated 11.07.2016 passed by the executing Court whereby the application filed by the petitioner for setting aside the *ex parte* proceedings was dismissed.

[2]. Perusal of the record would show that the plaintiff/respondent No.1 filed a suit for possession against the defendants. Defendants were duly represented by their counsel. The suit was decreed vide judgment and decree dated 06.12.2012. Defendants were directed to vacate the suit property within one month positively from passing of the order. The judgment and decree dated 06.12.2012 has already attained finality.

[3]. In the execution filed by the plaintiff/respondent No.1, the judgment debtor/petitioner was proceeded against *ex parte*

vide order dated 02.11.2017. Warrants of possession were ordered to be issued against the property of the judgment debtor/petitioner for 12.12.2017. Naib Tehsildar was directed to make necessary proceedings regarding possession. Thereafter necessary proceedings were undertaken at different quarters.

[4]. Petitioner/judgment debtor filed an application for setting aside the *ex parte* order 02.11.2017 only on 04.07.2019 on the ground that he had no knowledge about the proceedings as his counsel did not inform him.

[5]. Perusal of the record would show that the petitioner/judgment debtor appeared before the trial Court on 22.01.2016 through Mr. Mukesh Sheoran, Advocate who had filed memorandum of appearance on behalf of the petitioner. Thereafter the Advocate kept on appearing in the execution for more than one year comprising 6 to 7 effective opportunities, at last the Advocate did not appear on 02.11.2017 and the judgment debtor/petitioner was proceeded against *ex parte*.

[6]. The petitioner has alleged that his counsel did not inform him about the status of proceedings and he only came to know when warrants of possession were served upon him. The trial Court has not appreciated the conduct of the petitioner and it has been observed that the petitioner made his lawyer to appear on 6 to 7 occasions without any power of attorney that

too with the help of memorandum of appearance. He never enquired from his counsel as to the status of proceedings even after passing of the order dated 02.11.2017 for about 1½ years as the decree would not be executed.

[7]. I have considered the submissions made by learned counsel for the petitioner.

[7]. From perusal of record, it appears that that petitioner has not executed power of attorney in favour of his counsel and made him to appear on the basis of memorandum of appearance. After attending the trial Court on 6 to 7 occasions, the counsel did not appear for the reasons best known to the petitioner and the counsel. It also appears from the record that the petitioner was playing the tactics, having knowledge of pending proceedings from the very beginning. A decree for possession has already attained finality and there is no escape from delivering the possession of the suit property in favour of the decree holder. The conduct of the petitioner is not such which would tilt any equitable consideration in his favour.

[8]. In view of above, finding no ground to interfere with the impugned order, this revision petition is dismissed.

September 26, 2019

(RAJ MOHAN SINGH)
JUDGE

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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No