

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 7744 of 2017

Date of Decision: 17.01.2020

Roor Singh alias Aroor Singh

... Petitioner(s)

Versus

Narinder Singh alias Ninder Singh and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal

Present: Mr. Rahul Bhargava, Advocate
for the petitioner(s).

Mr. S.K.Mahajan, Advocate
for respondent No.1.

Anil Kshetarpal, J.

The Petitioner has filed the present revision petition against the order passed by the learned trial Court dismissing the application under Order 9 Rule 13 read with Section 151 CPC for setting aside *ex parte* proceedings as well as *ex parte* judgment & decree.

The *ex parte* proceedings were ordered against the petitioner/defendant on 31.10.2009, whereas *ex parte* judgment & decree came to be passed on 20.03.2013. The plaintiff had filed a suit for specific performance of the agreement to sell dated 07.12.2007. Upon notice, the defendant/petitioner appeared and engaged Sh. Kashmir Singh, Advocate. A written statement was filed. Thereafter, the defendant/petitioner and his counsel stopped appearing in the Court. The suit remained pending, after the defendant/petitioner was proceeded *ex parte*, approximately for a period of two and half years. However, the defendant did not appear during this

long period of two and half years, resulting in *ex parte* judgment & decree. Petitioner filed an application on 22.11.2013 for setting aside *ex parte* judgment & decree. It has been pleaded that the learned counsel representing the petitioner/defendant had died. However, the Court has found that the learned counsel had died in the year 2012. Both the Courts further found that the petitioner has failed to give any plausible explanation for non-appearance during the long period when the suit remained pending after 31.10.2009 or even thereafter.

This Court has heard learned counsel for the parties at length and with their able assistance, gone through the documents placed on the file.

Learned counsel for the petitioner submitted that the petitioner was told by the District Court lawyer late Sh. Kashmir Singh that he need not appear in the Court and, therefore, he kept waiting for the information from learned counsel. He further submitted that since the aforesaid counsel died in the year 2012, therefore, the petitioner did not come to know of the aforesaid *ex parte* judgment & decree.

On the other hand, learned counsel for the respondent has pointed out that the petitioner intentionally did not appear and the entire story put forth by him, is unbelievable. He further submitted that absence of the petitioner was willful and intentional and, therefore, *ex parte* judgment & decree should not be set aside.

On consideration of the matter, this Court finds no ground to interfere in the exercise of its revisional jurisdiction. Two Courts have already examined the contention of the learned counsel for the petitioner and

found that the explanation furnished for non-appearance of the petitioner/defendant for a period of two and a half years till the date of *ex parte* judgment & decree, even thereafter, has not been properly explained. It is not disputed that the learned counsel representing the petitioner before the trial Court, late Sh. Kashmir Singh, had died in the year 2012.

Keeping in view the aforesaid facts, no ground is made out to interfere. As such, present petition shall stand dismissed.

(Anil Kshetarpal)
Judge

January 17, 2020
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No