

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

Civil Revision No.787 of 2020

Date of Decision:3.2.2020

Balkar Singh

...Petitioner

Versus

Jagwinder Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr.P.S.Rai, Advocate
for the petitioner

RAJIV NARAIN RAINA, J. (ORAL):

1. Prayer in this petition under Article 227 of the Constitution of India is for setting aside the order dated 19.10.2019 (Annex.P1) passed by the Civil Judge (Jr.Divn.) Fatehgarh Sahib, whereby the application for setting aside the ex parte proceedings filed by petitioner/defendant No.1 has been dismissed.

2. Heard learned counsel for the petitioner.

3. The petitioner is the father of respondents No.1 and 2. It is too late in the day to inject the father ex parte since 12.12.2014 at the end of the trial when the case is mature for arguments. The plaintiffs have filed a suit against the father-defendant No.1 for declaration and possession on the basis of rights to coparcenary property. There is no reason or explanation of avoiding appearance and thereafter remaining ex parte for 5 years. It appears to this Court that the application under Order 9 Rule 13 CPC has been filed by the petitioner to prolong possession of the family over the suit property. This strategy I will not permit as it will inevitably lead to start of a fresh trial which the trial Court would have to do by giving opportunity

to the petitioner- father to file written statement which will lead to recasting the issues and then allowing parties to lead evidence. This will never end. As a father of respondents No.1 and 2, he would have the knowledge of the suit and everyday its proceedings. He has stated in his application that he lives in a distant place from his sons and he never knew of the litigation. There is no material available on record to substantiate this bald statement. The presumption is against him.

4. For these reasons, I do not find any ground to interfere in the order passed by the trial Court.

5. The petition is accordingly dismissed.

February 3, 2020
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(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned
Whether reportable-

Yes/No.
Yes/No