

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

CR-197-2020(O&M)

Date of decision: 13.01.2020

Gugan (deceased) through LRs

.....Petitioners

Versus

Parma Nand and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.A.K.Gupta, Advocate for the petitioners

ANIL KSHETARPAL, J. (ORAL)

Plaintiffs-petitioners are in revision against the order passed by learned Trial Court dated 16.10.2019 permitting the defendants to deposit the costs imposed while setting aside the ex parte judgment and decree. From the facts, it is apparent that an ex parte judgment and decree was passed in favour of the plaintiffs in the year 2009. On an application moved, learned Trial Court set aside the ex parte judgment and decree subject to the payment of costs of Rs.7500/-. Quantum of costs was challenged in this Court but was upheld vide order dated 19.7.2012. Defendants, thereafter, moved an application for permission to deposit the costs which has now been allowed.

Learned counsel for the petitioners contends that costs have been permitted to be deposited after a period of more than 7 years and therefore, the Court has erred.

On a pointed question ,learned counsel for the petitioners admitted that while setting aside the ex parte decree, the Court did not fix any period for the deposit of costs. Even in the revision petition, no

period was fixed. Still further, it is apparent that application for deposit of costs was moved in 2015. In such circumstances, in absence of any period having been fixed for deposit of costs, the defendants cannot be said to have defaulted.

Still further, present suit has been filed by the plaintiffs for declaration claiming ownership with regard to immovable property. The defendants are the recorded owners of the aforesaid land. Therefore, the defendants should be given right to contest the suit on merits. Hence, no ground to interfere.

Dismissed.

13.01.2020

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No