

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

207

**CR-7608-2018 (O&M)
Date of Order: 15.02.2022**

M/S VESTA BUILDERS & ESTATE DEVELOPERS PVT. LTD.
..Petitioner
Versus
MAM CHAND & ANR
..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajay Khanna, Advocate
for the petitioner.

Mr. Akshay Jindal, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

This revision petition under Article 227 of the Constitution of India has been filed by the defendant calling in question the correctness of order passed by the learned Civil Judge (Junior Division), Gurugram on 27.03.2018, while partially dismissing their application for setting aside ex parte proceedings. The defendant No.1 has been permitted to join the proceedings from that stage.

While notice of motion on 02.04.2019, the following order was passed:-

“Learned counsel for the petitioner inter alia contends that the petitioner was proceeded against ex-parte as the petitioner's counsel could not appear before the Trial Court due to miscommunication between the counsel and the the petitioner for the reason that all the Directors of the petitioner-Company are in jail since 30.10.2014. He further contends that on 18.05.2017, when the petitioner was proceeded against ex-parte, the petitioner's counsel could not appear before the Trial Court as the counsel's mother had suffered a hip fracture. He further submits that subject to payment of reasonable costs, to be

assessed by this Court, the petitioner be allowed to join proceedings from the date he was ordered to be proceeded against ex-parte.

Note of motion for 04.09.2019.

In the meanwhile, the Trial Court is restrained from passing the final order.”

This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

At this stage, it will be important to note that the respondent (plaintiff in the trial Court) has filed a suit with the following prayer:-

“It is, therefore, prayed that a decree for permanent injunction restraining the defendant from interfering in peaceful possession of the plaintiff regarding the land in question on account of the fact that the collaboration agreement, addendum thereof and all privities of contract between the plaintiff and the defendant stands cancelled, terminated and have come to end, may kindly be passed in favour of the plaintiff and against the defendant with costs of the suit.”

The learned counsel representing the respondent is unable to dispute the correctness of the assertion made by the learned counsel representing the petitioner to the effect that all the Directors of the petitioner-Company are in jail, since 30.10.2014.

In the suit filed by the respondent, the plaintiff is also seeking a relief in the nature of declaration to the effect that all the contracts between the parties stand cancelled, terminated or have come to an end. In the said suit, rights of the parties are required to be decided. It is well settled that the Courts must make an effort to decide the suits after granting an opportunity of hearing to all the respective parties. This is a case where all the Directors are in jail for more than last seven years.

Further, the learned counsel representing the respondent has failed to draw the attention of the Court to any irreparable loss on account of

delay in the disposal of the suit.

Keeping in view the aforesaid facts, the order which has been challenged is set aside. The petitioner is permitted to file its written statement within a period of 30 days. If no written statement is filed, the Court shall proceed to decide the suit forthwith.

If the written statement is filed, the trial Court will make a sincere endeavours for its disposal within a period of next nine months.

Disposed of.

All the pending miscellaneous applications, if any, are also disposed of.

February 15th, 2022

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**(ANIL KSHETARPAL)
JUDGE**

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