

125 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2617-2022

Date of decision : 12.07.2022

Abhimanyu Rao

...Petitioner

Vs.

Kamla Devi

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sanjay Mittal, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner (plaintiff) has preferred this civil revision to challenge the order dated 06.04.2022 (Annexure P-9) passed by Additional Civil Judge (Senior Division), Rewari, whereby the application filed by respondent (defendant) seeking condonation of delay in filing the application for setting aside ex parte decree against her, was allowed.

Learned counsel has argued that the petitioner/plaintiff had brought a suit for specific performance of oral agreement to sell dated 05.01.2013 as well as written agreement to sell dated 26.03.2018 along with consequential relief of permanent injunction relating to House No.742 (measuring 250 square yards) situated at Sector-3, Part-I, Rewari and after due service of the defendant, she was proceeded against ex parte. He submits that thereafter, the suit was decreed in favour of the petitioner through judgment and decree dated 30.07.2019, and later on, the decree was also satisfied as sale deed No.8015 dated 22.01.2020 was executed in his favour. He has pointed out that in the execution proceedings also, the defendant was proceeded against ex parte on 25.11.2019.

Learned counsel has argued that defendant moved an

application under Order 9 Rule 13 read with Section 151 Code of Civil Procedure on 22.03.2021 (Annexure P-5) seeking setting aside of the ex parte decree and along with the said application, she had also filed an application for condonation of delay and Additional Civil Judge (Senior Division) Rewari accepted the application for condonation of delay vide impugned order dated 06.04.2022. He submits that the defendant was well aware of the proceedings and had chosen not to contest the same and the application for setting aside the ex parte decree was filed without sufficiently explaining the delay behind it, therefore, the order dated 06.04.2022 deserves to be set aside.

Heard the learned counsel for the petitioner and perused the case file.

After hearing the learned counsel and considering the case file, this Court finds that the plaintiff filed a suit on 16.08.2018 and the respondent/defendant was proceeded against ex parte on 24.08.2018 (Annexure P-1) and later the ex parte decree dated 30.07.2019 (Annexure P-2) was also put under execution on 18.09.2019. Pursuant to the said proceedings, sale deed was executed and as per the stand of the defendant in the application, she was not aware of the institution of suit as well as execution proceedings against her as plaintiff had connived with the process server to obtain this decree quietly and discreetly. It is specifically pleaded in the application that she acquired knowledge of this ex parte proceedings on 23.02.2021, when petitioner took possession of the property with the help of police, therefore, the application was filed on 22.03.2021.

Further a perusal of the impugned order reveals that the

Additional Civil Judge (Senior Division) Rewari has examined the sequence of events carefully, particularly the elasticity injected by Hon'ble Supreme Court in the limitation period because of breakout of pandemic COVID-19.

Resultantly, this Court is of the opinion that the impugned order is based upon correct appreciation of the facts and law on the subject, and no ground is made out to interfere with the impugned order, as it does not suffer from any illegality or impropriety.

Dismissed.

(MANOJ BAJAJ)
JUDGE

12.07.2022

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No