

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 115

Civil Revision No.3671 of 2022 (O & M)
Date of Decision: September 06, 2022

Amit Bansal

..... PETITIONER(S)

VERSUS

Jagsir Singh & others

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

PRESENT: - Mr. K.S. Brar, Advocate, for the petitioner.

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Tribhuvan Dahiya, J (Oral)

CM No.11244-CII of 2022

Application is allowed.

Documents, Annexure P-1 to P-6 are taken on record.

Main Case

This is a revision petition under Article 227 of the Constitution of India for setting aside the order dated 19.07.2022 vide which an application filed by respondent No.2/judgment debtor for setting aside the *ex parte* order dated 02.11.2019 has been allowed by the Executing Court.

2. The *ex parte* order was passed in execution proceedings filed by the petitioner/decreed holder for execution of a decree for specific performance. It has been recorded in the order dated 19.07.2022 passed by the Executing Court that respondent No.2 had appeared in the court only once on 21.09.2019 and was proceeded against *ex parte* on 02.11.2019. Subsequently, in the proceedings, a Local Commissioner was appointed to get the sale deed executed on 18.01.2020. Due to Covid-19 pandemic the courts were working in a restricted mode, and effective proceeding could not take place. An application to set aside the *ex parte* order was, therefore, filed only on 04.04.2022, and the Court in setting aside the order opined that both the parties should be given adequate opportunity to present and contest the case.

3. Learned counsel for the petitioner has argued that as the application for setting aside the *ex parte* order was filed after a delay of two and a half years, it could not have been allowed. The respondent intentionally did not appear in the proceedings after once putting in appearance on 21.09.2019.

4. The order passed by the Executing Court setting aside the *ex parte* order dated 02.11.2019 is well reasoned and does not call for any interference. It is not in dispute that due to Covid-19 pandemic the courts were working in a restricted mode. Therefore, non-filing of the application for setting aside *ex parte* proceedings by respondent No.2 within limitation, could not be a valid ground to reject the same.

Besides, it is in the interest of justice that he should be allowed to join

the proceedings. No prejudice has been caused to the petitioner vide the impugned order.

5. Dismissed.

(Tribhuvan Dahiya)
Judge

September 06, 2022
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No