

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

CR-243-2023(O&M)

Date of decision:-13.3.2023

Jaswant Singh

...Petitioner

Versus

Hukam Chand

...Respondent

**CORAM: HON'BLE MR.JUSTICE H.S.MADAAN**

Present: Mr.Parminder Singh, Advocate  
for the petitioner.

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**H.S. MADAAN, J.**

1. Briefly stated, facts of the case are that plaintiff Hukam Chand had brought a suit against defendant Jaswant Singh seeking specific performance of agreement to sell dated 3.6.2014 said to have been executed by defendant Jaswant Singh in favour of plaintiff Hukam Chand for sale of land measuring 8 kanals 0 marla. The plaintiff had sought consequential relief of permanent injunction.

2. Notice of the suit was given to the defendant, who had put in appearance and filed written statement contesting the suit. Issues on merits were framed. However, during the course of proceedings, defendant absented and was proceeded against ex-parte vide order dated 28.3.2017.

3. After recording evidence, suit of the plaintiff was partly decreed for recovery of Rs.5 lakhs along with interest @ 6% per annum from the date of filing of the suit till realization. Such judgment and decree was passed by Civil Judge (Jr.Divn.), Indri on 7.7.2018.

4. Subsequently, the defendant filed an application under Order 9 Rule 13 CPC read with Section 151 CPC for setting aside of ex-parte order dated 28.3.2017 and ex-parte judgment and decree dated 7.7.2018 contending that his absence from the trial Court was not intentional or wilful but on account of assurance given by his counsel that his presence in the Court on each and every date was not required and he would inform him when there was necessity of defendant putting in appearance in the Court but counsel did not inform him and it was on 2.1.2019 when the Halqa Patwari and other revenue officials came to the village, then he came to know that his property had been attached in execution of warrants of attachment issued by the Court. Thereafter, he made inquiries from the previous counsel and engaged other counsel and filed the application.

5. Notice of that application was given to respondent/plaintiff, who appeared and filed written reply contesting the application. Issues on merits were framed and parties were given adequate opportunities to lead their evidence. Thereafter, the trial Court of Civil Judge (Jr.Divn.), Indri dismissed the application vide order dated 1.11.2019.

6. Feeling aggrieved, the defendant had preferred an appeal before District Judge, Karnal, which was assigned to Additional District Judge, Karnal, who vide judgment dated 9.12.2022 had dismissed the said appeal.

7. Such orders left the applicant/defendant aggrieved and he has approached this Court by way of filing the present revision petition.

8. I have heard learned counsel for the petitioner besides going through the record and I find that there is absolutely no merit in the revision petition.

9. The revision petitioner/defendant having put in appearance in the trial Court, filing written statement contesting the suit, issues on merits having been framed, then abruptly absenting from the Court cannot be justified from any angle. The reason given by him that he being an illiterate person, the counsel engaged by him had told him that his presence in the Court on each and every date was not required and he would inform him when there was necessity of defendant putting in appearance in the Court but counsel did not inform him, does not seem to be plausible and satisfactory. It is for a litigant to pursue his case properly by appearing in the Court and remaining in touch with his counsel. He cannot stop doing so on any alleged representation or advise given to him by his counsel. The whole story seems to have been concocted to offer a plausible explanation for absence from the Court of the defendant.

10. The impugned orders passed by the Courts below are quite detailed and well reasoned and those do not suffer from any illegality or infirmity and are not having any element of arbitrariness or perversity. The application was rightly dismissed by the trial Court and such order was correctly affirmed by the First Appellate Court of Additional District Judge, Karnal. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to

interfere with the orders by way of exercising the revisional jurisdiction.

11. Finding no merit in the revision petition, the same stands dismissed.

13.3.2023

Brij

(H.S.MADAAN)

JUDGE

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**