

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

CR-2484-2023
Date of Decision: -**01.09.2023**

VINOD KUMAR ALIAS RAJU

... Petitioner(s)

Versus

GURBACHAN KAUR SINCE DECEASED THROUGH LRS

... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Vaibhav Sehgal, Advocate
for the petitioner(s).

Mr. Swarn Singh Tiwana, Advocate
for the respondent.

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KARAMJIT SINGH, J. (Oral)

1. As per the report submitted by the trial Court in compliance of previous order, initially the application filed under Order 9 Rule 13 CPC filed by the petitioner was allowed and ex-parte judgment and decree dated 3.6.2011 was set aside vide order dated 1.11.2016. But later on, keeping in view the conduct of the petitioner, the Court concerned passed order to consign the main file and file of application for setting aside ex-parte judgment and decree dated 3.6.2011 separately, meaning-thereby that the order dated 1.11.2016 was automatically set aside and judgment and decree dated 3.6.2011 stood restored.

2. On query being put to the counsel for the petitioner, he submits that order dated 1.11.2016 was subject to payment of cost and cost was also deposited and after the setting aside of aforesaid judgment and decree, the trial Court adjourned the case for filing written statement on behalf of the respondent as is evident from dated 6.11.2016 (Annexure P-5).
3. It is amply clear that order dated 1.11.2016 has attained finality and as such the ex-parte judgment dated 3.6.2011 is no more in existence. This fact has not been disputed even by the counsel appearing for the respondents.
4. It being so, the impugned orders (Annexures P-6 and P-8) passed by the Executing Court based on aforesaid ex-parte judgment and decree dated 3.6.2011 are totally illegal and are accordingly hereby set aside.
5. Consequently present civil revision petition is allowed and the execution application, pending if any, on the basis of aforesaid ex-parte judgment and decree dated 3.6.2011 also stands dismissed.
6. However taking into consideration the fact that the civil suit was filed in the year 2008, the trial Court is directed to expedite the trial and to dispose of the suit preferably within a period of next 8 months.

01.09.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No