

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

119

2023:PHHC:153602

CR-5333-2022

Date of decision: 02.12.2023

GURBAX SINGH (DECEASED) THROUGH LR ..Petitioner

Versus

KEWAL SINGH AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rishav Jain, Advocate
 for the petitioner.

None for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. The respondent (plaintiff herein) filed a suit for possession by way of specific performance of the agreement to sell with a consequential relief of permanent injunction. During the pendency of the suit, the petitioner was served with a notice and he appeared through his counsel and filed a written statement. Thereafter, he absented, resulting in ex parte judgment and decree dated 15.01.2009.

2. The petitioner filed an application under Order IX Rule 13 of the Code of Civil Procedure, 1908, in the year 2015, which was dismissed on 01.02.2016. Again, the petitioner did not take any step nearly for a period of one and a half year. He filed first appeal against the order passed by the trial Court while dismissing his application under Order IX Rule 13 of the Code of Civil Procedure, 1908, along with an application for condonation of delay of 644 days. The aforesaid application has been dismissed by the Court. The petitioner has alleged that his counsel did not disclose about the fact that the suit has been dismissed in default.

3. The trial Court has dismissed the application on the ground that the petitioner has failed to show sufficient cause for condonation of delay.
4. It is evident that at every stage, the petitioners have been committing default in prosecuting the case. In the beginning, they did not contest the suit, resulting in ex parte judgment and decree. After a period of 6 years, they filed application for setting aside ex parte decree, which was dismissed on 01.02.2016. Again, the appellants filed an application for condoning the delay of 644 days in filing the first appeal.
5. In view of the facts and discussion, no ground to interfere is made out.
6. Dismissed accordingly.
7. All the pending miscellaneous applications, if any, are also disposed of.

December 02nd, 2023

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(ANIL KSHETARPAL)
JUDGE

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