

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

CR-6488-2023

Date of Decision: -02.11.2023

UDEYVIR SINGH

... Petitioner(s)

Versus

RAVIR SINGH ALIAS RANVIR SINGH

... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Anil Kumar Singh Goyat, Advocate
for the petitioner(s).

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KARAMJIT SINGH, J. (Oral)

1. The present petition has been filed by the petitioner/deGREE holder against the order dated 14th September, 2023 (Annexure P-10) passed by the Court of learned Additional District Judge, Jind vide which the appeal filed by the respondent/JD against the order dated 18th August, 2023 (Annexure P-9) passed by the Executing Court of Additional Civil Judge (Senior Division) Narwana in Execution No.28/2022 titled UdeyvIr vs. Ravir Singh, has been illegally allowed while setting aside ex-parte order dated 18.8.2023 passed by the Executing Court.
2. The brief facts of the case are that petitioner UdeyvIr Singh filed suit for specific performance of contract against respondent-Ravir Singh wherein the respondent was proceeded against ex-parte and on

conclusion of the case ex-parte decree dated 8th March, 2022 was passed in favour of the petitioner and against the respondent. Thereafter the petitioner filed execution application and notice of the same was issued to the respondent but he failed to appear and consequently proceeded against ex-parte vide order dated 10th August, 2022. Thereafter respondent filed an application dated 16th August, 2023 to set aside the said ex-parte proceedings. The petitioner filed reply to said application and the said application was dismissed by the Executing Court vide order dated 18.8.2023 (Annexure P-9). Being aggrieved respondent filed appeal against the said order and the same was allowed by the Court of Additional District Judge, Jind vide order dated 14th September, 2023 (Annexure P-10) and the ex-parte proceedings dated 18th August, 2023 were set aside against the respondent subject to cost of ₹10,000/-.

3. I have heard the counsel for the petitioner.
4. There is no doubt that respondent filed application within a period of limitation for setting aside ex-parte order dated 10th August, 2022. However, from the perusal of the impugned order, it is not clear as to whether respondent has filed any appeal or an application under Order 9 Rules 13 CPC for setting aside ex-parte judgment and decree dated 8th March, 2022. The 1st Appellate Court allowed the appeal oblivious of the fact that no efforts were made by the respondent to set aside the aforesaid ex-parte decree and is seeking setting aside of ex-parte proceedings in the execution application, which is off shoot of the aforesaid ex-parte decree.

5. In the given circumstances, the impugned order is not sustainable and is hereby set aside and the Appellate Court is directed to decide the civil miscellaneous appeal afresh after getting necessary instructions from the respondent as to whether any regular appeal or an application under Order 9 Rule 13 CPC has been filed by him against the ex-parte judgment dated 8th March, 2022 passed by the Court of Additional Civil Judge (Senior Division), Narwana in civil suit title Udhey Singh vs. Ravir Singh @ Ranbir Singh. The petitioner is directed to appear in the Court of Additional District Judge, Jind on 4th December, 2023 for further proceedings in the 1st Appellate Court.
6. The present petition stands disposed of in the aforesaid terms. Keeping in view the circumstances mentioned above, the present petition is being disposed of without issuing any notice to the opposite party.

02.11.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No