

CR-3709-2023

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2024:PHHC:000699

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

224

CR-3709-2023 (O&M)
Date of Decision: 05.01.2024

SUDHANSHU CHAUDHARY AND ORS.

... Petitioners

VERSUS

SATENDER SINGH AND ORS.

....Respondents

CORAM: HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. S.K.Tripathi, Advocate
for the petitioners.

Mr. Prabhat Yadav, Advocate
for respondents No.1 and 2.

None for respondent No.3-Bank.

RITU TAGORE, J.(Oral)

This is a revision against orders dated 15.06.2021 and 25.05.2023 (Annexure P-4 and P-7) whereby petitioners (defendants No.1 to 4 before the learned lower Court) despite service failed to put up appearance and were proceeded *ex parte*. Thereafter, the petitioners filed an application for setting aside the said orders which was contested by respondents (plaintiffs before the learned lower Court). After considering pleadings raised in the application and respective submissions of the learned counsel for the parties, learned lower Court dismissed the application vide order dated 25.05.2023, which constrained the petitioners to file the extant revision-petition.

Mr. Prabhat Yadav, Advocate filed Memo of appearance on behalf of respondents No.1 and 2 in Court today, which is taken on

record, subject to just exceptions. Since respondent No.3 has been arraigned as performa respondent and no relief has been claimed against it, accordingly the service to aforesaid respondent has been dispensed with on the request of the petitioners made through their counsel. Learned counsel for respondents No.1 and 2 states that he has instructions on behalf of the respondents to submit that respondents have no objection if the order dated 15.06.2021 and 25.05.2023 (Annexure P-4 and P-7) are set aside on payment of costs. Respondents-plaintiffs have filed a suit for specific performance of registered agreement to sell dated 19.01.2020 bearing vasika No.4393 and for permanent injunction restraining defendants (petitioners from alienating/creating third party charge/interest in the suit land as detailed in the plaint and dispossessing the plaintiffs from the same in any manner.

In view of the relief claimed by respondents against the petitioner, denying them (petitioners) right to raise a contest against the relief would cause a serious prejudice. Even otherwise, the party should be allowed to contest the matter on merits than scuttling their rights on rigid grounds. It is always desirable to decide a lis after hearing both the parties rather than shutting doors of contest upon a party by adopting a technical approach to the matter where the other party can always be compensated with costs. To this extent impugned order cannot stand in judicial scrutiny.

In the circumstances, to do complete justice between the parties, I feel that one opportunity be granted to the petitioners.

Accordingly orders dated 15.06.2021 and 25.05.2023 (Annexure P-4

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and P-7) stand set aside subject to payment of Rs.8,000/-, as costs to be paid by the petitioners to respondents No.1 and 2.

Parties are directed to appear before the learned trial Court on the next date of hearing as fixed by the trial Court and make the payment of costs and shall file their written statement within 15 days thereafter.

Accordingly, revision is allowed, in above terms.

**(RITU TAGORE)
JUDGE**

05.01.2024
Rimpal

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