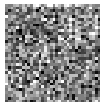


IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

124

2024.PHHC:069874



CR-4517-2022
Date of decision: 17.05.2024

MUKHRAM (DECEASED) THROUGH LRS AND ORS.

..Petitioners

Versus

JAIKARAN (DECEASED) THROUGH LR AND ORS.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sarvjit Singh Khurana, Advocate
for the petitioners.

Mr. Jaivir Yadav, Sr. Advocate
with Mr. Tarun Yadav, Advocate
and mr. Nitish Sharma, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. The respondents application under Order IX Rule 13 of the Code of Civil Procedure, 1908 (hereinafter referred to as the “CPC”) to set aside ex parte judgment and decree dated 01.08.1968 is pending in the trial Court. In the aforesaid proceedings, issues have already been framed and the parties have been directed to lead evidence. At that stage, the petitioners who are non-applicants before the trial Court filed an application for dismissing the application under Order IX Rule 13 of the CPC on the ground that the respondents have filed a civil suit, which was dismissed. The trial Court has refused to dismiss the petition filed under Order IX Rule 13 of the CPC on the ground that the parties have been directed to lead evidence.
2. The correctness of such order is challenged in this revision petition.

3. The learned counsel representing the parties while highlighting that the ex parte judgment and decree passed on 01.08.1968 and the independent suit filed by the respondents has been dismissed, prays for setting aside the impugned order.

4. Per contra, the learned Senior counsel representing respondent No.1 submits that the evidence of three respondents witnesses have already been recorded.

5. This Court has considered the submissions of the learned counsel representing the parties.

6. The trial Court has only observed that in the facts and circumstances of the present case, the parties should be permitted to lead evidence.

7. Hence, this Court does not find it appropriate to interfere.

8. Dismissed accordingly.

9. Needless to observe, it shall be open to the petitioner to take all defences before the trial Court.

10. All the pending miscellaneous applications, if any, are also disposed of.

May 17th, 2024
Ay

(ANIL KSHETARPAL)
JUDGE

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