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

CR-6722-2024

Date of decision: 10.12.2024

Harender Singh

...Petitioner

Versus

Ishwar (since deceased) through his LR and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Aditya Jain, Advocate and
Mr. Rahul Vohra, Advocate for the petitioner.

Mr. Rakesh Dhiman, Advocate for respondent Nos.1 and 2.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for quashing the order dated 05.09.2024 (Annexure P-6) passed by the trial Court in Civil Suit No.5041/2018 dated 01.12.2018 (Annexure P-1) titled as “Ishwar and another Vs. Harender and others” vide which the application dated 05.09.2024 (Annexure P-5) has been allowed.

2. On 19.11.2024, this Court had passed the following order:-

“Inter alia contends that in the present case a perusal of the impugned order dated 05.09.2024 would show that there is no observation much less finding of the trial Court, that there was a formal defect on account of which the suit had to fail and there were sufficient grounds for allowing the plaintiff to file a fresh suit. It is submitted that as per provisions of Order



*23 Rule 1 sub rule (3), the said satisfaction is necessarily required to be recorded. It is further submitted that before passing the impugned order, no due opportunity had been granted to the petitioner to raise objections and on the said aspect, reliance has been placed upon the judgment of the Hon'ble Supreme Court of India in the case titled as **Anil Kumar Singh vs. Vijay Pal Singh & Ors., Civil Appeal no.20007 of 2017 decided on 30.11.2017**. It is submitted that at any rate, the impugned order deserves to be set aside and the matter deserves to be remanded to the trial Court for a fresh decision.*

Notice of motion to respondents no.1 and 2 for 02.12.2024.

Liberty is granted to the petitioner to serve respondents no.1 and 2 through dasti process.

To be shown in the urgent list.”

3. Thereafter, on 02.12.2024, this Court had passed the following order:-

“Learned counsel for the respondents prays for an adjournment to get instructions in the matter.

On his request, adjourned to 10.12.2024.

To be shown in the urgent list. ”

4. Learned counsel appearing on behalf of contesting respondent Nos.1 and 2 has submitted that he has got instructions in the matter that since in the impugned order no reason has been given, thus, fresh order be passed but the said order should not be construed as an estoppel against the respondents from raising all the pleas, as it is the case of the respondents that their application is a meritorious one.

5. Keeping in view the abovesaid facts and circumstances and fair

stand taken by learned counsel for the petitioner as well as learned counsel for contesting respondent Nos.1 and 2, the impugned order is set aside and the Civil Judge (Junior Division) is directed to decide the application dated 05.09.2024 (Annexure P-5) afresh, in accordance with law and after hearing both the parties concerned. Both the parties are directed to appear before the trial Court on 16.12.2024 and the trial Court is requested to decide the said application afresh, as expeditiously as possible, preferably within a period of 15 days from 16.12.2024.

6. It is made clear that this Court has not opined on the merits of the case and the application would be decided by the trial Court independently, after hearing both the parties concerned.

7. In view of what has been observed above, the present revision petition is disposed of.

10.12.2024
Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No