

SUKHWINDER SINGH V. JAGROOP SINGH, 2015 **PLRonline 0106**

Supreme Court Of India

Dipak Misra, J. Prafulla C. Pant, J.

SUKHWINDER SINGH V. JAGROOP SINGH

Civil Appeal No. 1406 of 2015

2.2.2015

CPC Order IX Rule 13 - Respondents instituted civil suit of 2004 for specific performance of the contract on the foundation that the defendants had entered into an agreement for sale in respect of a land admeasuring 03 kanals and 04 marlas for a sum of Rs. 1,40,000/- Ex parte judgment was passed - It is a fit case where the appellants should be allowed an opportunity to contest the suit. Therefore, we direct that The appellants shall be permitted to file a written statement within two months and he shall be allowed to contest subject to payment of costs of Rs. 1,50,000/- .

Judgment

1. Leave granted.
2. The present appeal by special leave is directed against the judgment and order dated 12.09.2013 passed by the learned Single Judge of the High Court o Punjab and Haryana at Chandigarh in Sukhwinder Singh v. Jagroop Singh, Civil Revision No. 5332 of 2012, order dated 12-9-2012 (P&H) whereby the High Court has declined to set aside the order passed by the appellate authority refusing to condone the delay, dismissed the appeal and thereby affirms the order of the learned Trial Judge under Order IX Rule 13 of the Code of Civil Procedure denying to set aside the ex parte judgment and decree dated 14.06.2007 in Civil Suit RBT No. 915-1 of 2004.
3. The respondents instituted the said civil suit of 2004 for specific performance of the contract on the foundation that the defendants had entered into an agreement for sale in respect of a land admeasuring 03 kanals and 04 marlas for a sum of Rs. 1,40,000/- (Rupees one lac forty thousand only). As the defendants did not contest the suit, an ex parte judgment was passed. Defendants' application to set aside the ex parte decree passed on 14.06.2007 was not accepted by the trial Judge on the ground that no evidence was produced for setting aside the ex parte decree. Being aggrieved by the aforesaid order, the present petitioner preferred an appeal before the Addl. District Judge who declined to interfere. Aggrieved thereby, the petitioner filed a Revision before the High Court, which is impugned herein.

4. Having heard learned counsel for the parties and keeping in view the lis in question, we are of the considered opinion that it is a fit case where the appellants should be allowed an opportunity to contest the suit. Therefore, we direct that The appellants shall be permitted to file a written statement within two months and he shall be allowed to contest subject to payment of costs of Rs. 1,50,000/- (Rupees one lac fifty thousand only) to the Respondent No. 1. If the cost is not paid, as directed hereinabove, the suit shall stand decreed forthwith. The costs shall be paid at the time of filing of the written statement within two months, as stated hereinabove. If the order is complied with, the learned trial Judge shall proceed with the suit and dispose of the same within six months.

5. The appeal is accordingly allowed. There shall be no order as to costs of this appeal.