

IN THE COURT OF SUB-JUDGE I, JAGDISHPUR, BHOJPUR AT ARA

Title Suit Case No. 30/2021

CIS No. 30/2021

Date of Order or Proceeding	Order with the Signature of the Court	Office action taken with
06.07.2023	Both sides have filed their hazri. Case called out. On call Ld. Advocate of both sides appeared. Heard Ld. Advocate of both sides on defendant's petition dated 13.09.2022 and rejoinder thereon dated 20.04.2023. Perused the case record. On the perusal of case record, it transpires that defendant Priyanshu Singh has submitted that he has appeared in this case and after appearance he come to know that this case is running in exparte hearing against him. Therefore it has been prayed by the defendant that exparte order may be recalled and he may be permitted for filing his written statement. Plaintiff has opposed the said petition through his rejoinder dated 20.04.2023 and submitted that plaintiff has filed this suit for cancellation of sale deed and after sending the notice through Nazarat and registered post and after publication of notice, case was fixed in exparte hearing and after the lapse of several months, defendant no. 1 has filed the said petition for recalling the exparte order therefore, said petition is not maintainable and only to delay the case said petition has been filed and prayed for rejecting the said petition. On the perusal of case record, it transpires that in the present case vide order dated 21.07.2022 after issuing the notice, registered notice and publication in daily news paper, case was fixed for exparte hearing against defendants vide order dated 21.07.2022 thereafter on dated 13.09.2022 defendant Priyanshu Kumar Singh defendant no. 1 appeared and filed a petition in hand for recalling the exparte order. On the perusal of case record, it transpires that no proceeding took place during the exparte hearing as yet and it is established principle of law that issues shall be decided on its merit and not on technical ground. Therefore, in the interest of justice defendant's petition dated 13.09.2022 allowed with the cost of Rs. 1500/- payable to the plaintiff. Put up on 15/09/2023 for filing written statement. Dictated Sub Judge-I, Jagdishpur, Bhojpur.	