

C.S. No. 611225/16

Devender Kumar vs. Fateh Singh and Anr.

13.04.2017

Present : Sh. Kuldeep Balhara, Counsel for plaintiff.
Sh. S.N. Khanna and Sh. Geeta Khanna, Counsel for
defendant No. 2.

Application U/o 9 Rule 7 CPC along with application U/s 14 r/w Section 5 of Limitation Act, moved on behalf of defendant No. 2, is pending consideration. It is submitted that written statement had already been filed on behalf of defendant No. 2, but due to confusion because of pendency of another case, defendant No. 2, did not appear in the matter, was proceeded ex-parte and also could not move the application in time. Having gone through the contents of the application and considering that not much substantial so far has been done in the matter, application U/o 9 Rule 7 CPC stands allowed with cost of Rs. 2,000/-. Written statement on behalf of defendant No. 2 is on record. This is suit for recovery of sum of Rs. 25 Lakhs which was allegedly given to defendant No. 2 in view of the compromise arrived at between the parties in previous suit. On the basis of compromise, the said suit was disposed off. It is submitted by Counsel for plaintiff that he could not file the execution since compromise decree had not been passed. He has also moved application seeking revival of the said suit and 02.05.2017 is date fixed for order on the application of plaintiff. The said case if is revived, the instant separate suit for recovery would not be maintainable.

Put up for awaiting the outcome of the said proceedings on 29.05.2017. On request, date is changed to 01.06.2017.

SAVITA RAO
ADJ-01/WEST/13.04.2017