

CNR No. PBSAAO 001079 2018

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Labh Singh Vs. Sher Singh & Others

Present: Sh. Kharak Singh Advocate for applicant/defendant No.1
Sh. Sachin Chaudhary Advocate for plaintiffs/respondents

ORDER:-

This order of mine shall dispose of an application for setting aside the ex parte judgment and decree dated 15.12.2017, passed in Civil Suit No. RT 15 of 11.04.2017, in case titled as Sher Singh and Another Vs. Labh Singh and Others.

2. The applicant/defendant No. 1 has stated that he was never informed about the pendency of the present case and he was served through newspaper, which is an alternative mode of service. Hence, he was never aware about the pendency of the present case. It is further submitted that he got to know about the present ex parte judgment and decree on 05.09.2018 only when he appeared in another suit filed by him, for his cross-examination. Thereafter, he obtained the copy of ex parte judgment and filed the present application on 24.09.2018. Hence, it is prayed that the application be allowed and ex parte judgment and decree dated 15.12.2017 may kindly be set aside.

3. Upon notice, learned counsel for plaintiffs/respondents No.1 and 2 did not oppose the contentions raised by the applicant/defendant No.1 and also suffered no objection if the application under Order IX Rule 13 C.P.C., is allowed.

4. I have heard the learned counsel for parties and gone through the

documents placed on record.

5. The perusal of file reveals that applicant No.1 was proceeded against ex parte on 28.07.2017 after the publication to procure its service was received back effected on 11.06.2017. The respondents do not raise the objection about the date when the applicant came to know about the ex parte judgment, which as per applicant, is on 05.09.2018. The present application was thereafter filed on 24.09.2018, which is well within the period of limitation. Hence, the application under Order IX Rule 13 C.P.C. stands allowed and ex parte judgment and decree dated 15.12.2017 is hereby set aside. Applicant/defendant No.1 is allowed to join the proceedings in main case. Application stands disposed off accordingly.

6. Original file titled as Sher Singh & Another Versus Labh Singh and Others, bearing Civil Suit No.RT – 15 of 11.04.2017 is restored to its original number. Ahlmad is directed to summon the original file from Record Room for 17.12.2018 and restore the same to its original number in relevant register as well as in CIS System.

Pronounced in open court.
Date of Order: 03.12.2018

(Sumit Kumar)
Stenographer Gr-II

(Ashima Sharma)
Civil Judge (Jr. Divn)
(UID : PB – 0548)
Kharar.

Next Date : 17.12.2018
Purpose :