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

CR-6111-2022(O&M)

Date of Decision: 25.09.2025

Subhash Chand and another

..... Petitioners

Versus

Sunder and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr.Rakesh Sobti, Advocate
for the petitioners.

Mr.Lekh Raj Sharma, &
Ms.Shagun, Advocate
for the respondents.

HARKESH MANUJA, J. (ORAL)

By way of present revision petition challenge has been laid to an order dated 05.07.2018 passed by the Court of learned Civil Judge (Senior Division), Palwal; whereby an application filed under Order 9 Rule 13 CPC seeking setting aside of the *ex-parte* proceedings carried out against petitioners/ defendants vide order dated 05.11.2015 passed by the learned trial Court has been dismissed.

2. Briefly stating, based on an agreement to sell dated 03.10.2008 relating to 6.66 marlas (200 sq. yards of land) situated in Panchwati Colony, Tehsil and District Pawal, respondents filed a suit for possession by way of specific performance against the petitioners/ defendants. As per the records, the suit was presented before the



learned trial Court on 15.10.2015, whereupon notices were issued to the petitioners/ defendants for 05.11.2015. The petitioners/ defendants were proceeded against ex-parte on 05.11.2015 on account of their non-appearance. An application for setting aside of the ex-parte proceedings was filed by the petitioners on 19.01.2017, which was opposed at the instance respondents/plaintiffs. Learned trial Court vide order dated 05.07.2018 rejected the prayer made in the application filed by the petitioners.

3. I have heard learned counsel for the parties and gone through the paper-book.

4. As a matter of fact, the civil suit in question is still pending adjudication before the learned trial Court. A perusal of the record shows that petitioner No.2/defendant No.2 was purportedly served on 17.10.2016, however, the report of service nowhere reflects the signature of petitioners thereupon. Despite the said fact, the learned trial Court went on to record that the summons attached with the file show the signatures of petitioners/ defendants and that too without affording any opportunity to the parties to lead their evidence on this aspect. Once the factum of alleged signatures over the summons was even disputed by petitioner No.2, before recording any finding in this regard, the learned trial Court was required to frame issues and also grant opportunity to the parties to prove their respective stand. Even otherwise, upholding of the impugned order will cause serious prejudice to the rights of the petitioners as they will not be able to put-forth any defence to the claim set up by respondents.



5. Accordingly, by adopting a pragmatic approach rather than being hyper-technical, the revision petition is allowed. Impugned order dated 05.07.2018 passed by learned Civil Judge (Senior Division), Palwal is thus set aside. The petitioners/ defendants are permitted to participate in the proceedings arising out of Civil Suit No.816 of 2015, titled as '**Shri Sunder and another Vs. Shri Subhash Chand and another**' from the stage they were proceeded against *ex-parte*.

6. The petitioners undertake to file their written statement within 30 days from today, which shall, however, be subject to payment of cost of Rs.10000/- to be deposited with Punjab State Legal Services Authority- Disaster Relief Fund, having Account No. 44426937384, IFSC Code: SBIN0014656 with State Bank of India, Sector 68, SAS Nagar, Mohali.

7. However, considering the fact that for the past 10 years, the respondents/ plaintiffs are suffering on account of delay in adjudication of their suit, the learned trial Court is requested to expedite the proceedings in the suit and conclude the same within 08 months from today.

8. Pending misc. application(s), if any, shall also stand disposed of.

25.09.2025
sanjay

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>