

CR-973-2025 (O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CR-973-2025 (O&M)
Date of Decision : 21.07.2025

Bikash Polley

... Petitioner

Versus

Rajwanti

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

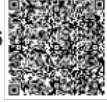
Present: Mr. Pankaj Bains, Advocate,
for the appellant.

Mr. Pawan Attri, Advocate,
for the respondent.

PANKAJ JAIN, J. (Oral)

The present revision petition is directed against the order dated 18.05.2023 passed by Rent Controller, SAS Nagar (Mohali) and order dated 19.12.2024 passed by the Appellate Authority, SAS Nagar (Mohali) whereby the application filed by the respondent tenant under Order IX Rule 13 CPC for setting aside *ex parte* judgment dated 01.08.2018 passed in Rent Petition No.28 dated 18.11.2015 stands rejected.

2. The facts leading to the passing of the *ex parte* judgment against the petitioner tenant have been culled out by the Rent Controller in para. 14 of the order dismissing the application under Order IX Rule 13 CPC which reads as under : -



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“14. From perusal of the judicial file, this Court finds that Rajwanti had filed a Rent Petition against Bikash Polley 18.11.2015. Sh. Durga Dutt Sharma, Advocate filed memo of appearance on behalf of respondent Bikash Polley (applicant in the present case) on 13.05.2016 and the said Rent Petition was dismissed in default on 25.10.2016 due to non appearance of petitioner. Perusal of file further reveals that the petitioner (respondent in the present case) preferred restoration and the restoration application was allowed ex-parte due to the fact that applicant Bikash Polley (Respondent in the main Rent Petition) did not come present contest the restoration application. Perusal of file further reveals that after restoration respondent (applicant in the present case) was again summoned and summons were received back duly served through his wife and he preferred not to come present was resultantly proceeded against ex-parte vide order dated 13.04.2018. It clearly shows that applicant was himself at fault for not bothering about the litigation pending against him despite appearing in the Court w.e.f. 13.05.2016 through his counsel (before dismissal of Rent Petition in default). Even he was again served through his wife after restoration of the Rent Petition and did not bother to come present for contesting the case.”

3. Counsel for the petitioner is not in a position to dispute that service through wife of the petitioner stands proved on record and it is only thereafter that *ex parte* judgment and decree was passed on 21.11.2018. He, however, submits that the petitioner has a valid defence as title of the landlady is being disputed. The property stands purchased by the petitioner-tenant-Bikash Polley. In the considered opinion of this Court, in case the petitioner disputes his status as tenant and claims title over the suit property, he can do so and raise the plea by filing a separate suit wherein he can seek



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decree of declaration. At this stage, counsel for the petitioner submits that the said suit has already been filed.

4. Since present proceedings are proceedings under Section 13 of 1949 Act, the findings recorded by the Rent Controller or the Authority under the Rent Act shall not operate as *res judicata* in declaratory suit if so filed by the petitioner. Finding no merit in the present revision petition, the same is ordered to be dismissed.

5. Pending application, if any, stands disposed off.

(PANKAJ JAIN)
JUDGE

July 21, 2025

Paritosh Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No