

(1995) 07 MP CK 0030

In the Madhya Pradesh High Court

Case No : Civil Revision No. 293 of 1994

Dhulji Kishanlal Sen

APPELLANT

Vs

Omprakash Kanhaiyalal Agrawal

RESPONDENT

Date of Decision : 06-07-1995

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 17 Rule 1, Order 9 Rule 7

Citation : (1996) 1 MPJR 294 : (1996) 41 MPLJ 153 : (1996) MPLJ 153

Hon'ble Judges : Jayant Govind Chitre, J

Bench : Single Bench

Advocate : D. Udawat, for the Appellant; R.C. Chazed, for the Respondent

Final Decision : Dismissed

Judgement

J.G. Chitre, J.

This revision petition is finally heard and decided on request of both the learned counsel.

Shri Udawat submitted that the suit was listed for hearing before C. J. Class I, Narsingharh on 8-3-1994 but on that date the petitioner was absent and his advocate was engaged in other court. The court directed to proceed with the suit ex parte on that date. An application was moved for setting aside that order on 9-3-1994 by the petitioner which was objected to by the opponent.

Shri Udawat submitted that the court should have passed an order setting aside that order by which suit was directed to be heard ex parte against the petitioner, because the petitioner was prevented from attending the court because of good ground and his advocate was engaged in some other courts.

Countering to this, Shri R. C. Chazed submitted that in view of provisions of Order 17, Rule 1(c), Civil Procedure Code, the fact that the pleader of party is engaged in another court, shall not be a good ground for adjournment. He submitted that this petition be dismissed.

Order 17, Rule 1(i) indicates that Court may, if sufficient cause is shown, at any stage of the suit, grant time to the party or any one of them and may from time to time adjourn the hearing of the suit.

It appears that on 3-12-1993 an application was moved by the petitioner for setting aside the ex parte hearing order which was passed on 2-12-1993. In view of provisions of Order 9, Rule 7 if the defendant wants the adjournment of hearing of suit ex parte, he is obliged to assign good ground explaining his previous non appearance.

In Order 17, Rule 1(i) it has been indicated that the court may, if sufficient cause is shown, at any stage of the suit, grant time to the parties or any of them and may from time to time adjourn hearing of the suit.

Therefore, it was necessary for the petitioner" to put his case within four corners of provisions of Order 17, Rule 1(i)(c) or Order 9, Rule 7, Civil Procedure Code.

When the defendant does not show a good or sufficient cause, as contemplated by any of the above provisions of Civil Procedure Code, he is to suffer the consequence indicated by those provisions.

I do not find any impropriety, incorrectness, perversity, or illegality in the order which has been assailed by this revision petition. Therefore, revision petition stands dismissed with costs.