

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.4139 of 2015

Date of Decision.06.07.2015

Satyabir Singh

.....Petitioner

Versus

Mir Singh and others

.....Respondents

Present: Mr. Sumit Sangwan, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. In second appeal before this Court at the instance of the plaintiff against summary dismissal, an opportunity was given to the plaintiff for giving evidence and conclude the same. Before such evidence was concluded, a defendant who had already been set ex parte in the year 2000, filed written statement which has been taken on board. The plaintiff is aggrieved against the order of the Court below in allowing the written statement to be given especially when the order setting him ex parte in the year 2000 has become final and the matter was remitted to the trial Court only for giving one opportunity to the plaintiff to give his evidence.

2. The facts as narrated by the petitioner would disclose that there is an error in procedure adopted by the Court below in allowing for written statement to be filed by a defendant even when the defendant had been set ex parte. So long as no decree has been passed earlier, the order setting up the defendant ex parte must be taken as ex parte order that is always liable for being set aside before the decree is passed under Order 9

Rule 7 CPC. It has been held in several decisions that the Court shall always be liberal in considering an application for setting aside the ex parte order and there is no bar for moving such an application. I will set right the procedure and treat the ex parte order already passed against the defendant who has filed the written statement as having been set aside and the written statement received. The Court will, therefore, allow for the case to be taken to the next stage of framing of issues and for conduct of the trial in accordance with law.

3. I make no intervention against the order which is impugned and the revision petition is dismissed with the above observations.

(K. KANNAN)
JUDGE

July 06, 2015
Pankaj*