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

CR No.4811 of 2015 (O&M)
Date of decision: August 03, 2015

Mithu Singh

.....Petitioner

Versus

Gram Panchayat Village Mandhali
and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. B.S. Sodhi, Advocate
for the petitioner.

SABINA, J

Petitioner has filed this petition challenging the order dated 21.07.2015, whereby, application moved by respondent No.1 under Order 9 Rule 13 of Code of Civil Procedure, 1908 ('CPC' for short) for setting aside *ex parte* judgment/decreed dated 06.06.2011, was allowed.

Learned counsel for the petitioner has submitted that the Gram Panchayat was fully aware of the pendency of the suit filed by the petitioners. However, Gram Panchayat had failed to defend the suit, as despite service, it had failed to appear before the trial Court. Hence, the application moved by the Gram Panchayat under Order 9 Rule 13 CPC was liable to be dismissed.

In the present case, petitioner and respondent No.1 had filed suit for declaration and injunction against the Gram Panchayat. *Ex parte* judgment/decreed was passed in favour

of the petitioner and the respondent No.2 on 06.06.2011. Thereafter, respondent No.1 moved an application under Rule 13 CPC for setting aside the *ex parte* judgment/decreed. The case of the Gram Panchayat was that it had initiated proceedings against the petitioner and others under Sections 4, 5 and 7 of the Punjab Village Common Lands (Regulation) Act, 1961 ('Act' for short). In fact, Panch Kuldeep Singh who had initiated proceedings against the petitioner and others under the Act, connived with the petitioner and intentionally did not defend the suit. On coming to know about the *ex parte* judgment/decreed, the application was moved by the Gram Panchayat through Sarpanch Jaswant Kaur and later, it was contested by Sarpanch Jagroop Singh. In the facts and circumstances of the present case, the learned trial Court had rightly set aside the *ex parte* judgment/decreed dated 06.06.2011.

The impugned order being just and fair, calls for no interference.

Dismissed.

**(SABINA)
JUDGE**

August 03, 2015
mahavir