

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.641 of 2015

Date of Decision: 28.01.2015

Som Raj

. . . .Petitioner

Versus

Najinder Singh alias Khandu and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Sandeep Arora, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is directed against the order dated 9.12.2014, allowing the application of the defendant for setting aside the *ex parte* order dated 17.9.2014.

Learned counsel for the petitioner has vehemently argued that the defendant did not cross-examine the witnesses of the plaintiff though they were present and on 17.9.2014 neither the defendant nor his Advocate appeared in the Court, therefore, the Court had rightly passed the impugned order. Later on, an application for setting aside the *ex parte* order was filed through new advocate on 6.10.2014 without giving any sufficient cause for non-appearance on 17.9.2014.

I have heard learned counsel for the petitioner and after examining the record, am of the considered opinion that under Order 9 Rule 7 of the CPC, the Court has to find genuine cause for setting aside the *ex parte* proceedings but in the present case after 17.9.2014 no material proceedings have taken place inasmuch as no other witness has been examined so far, therefore, there is no error

in the order of the Court below in allowing the defendant to join the proceedings. Hence, the present petition is hereby dismissed.

However, keeping in view the conduct of the defendant, the trial Court is directed to expedite the trial.

28.01.2015

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**