

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

CR No.3199 of 2016.

Date of Decision: 16.02.2017.

M/s Krishna Enterprises

....Petitioner.

VERSUS

Sanjay Singh and another

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Rajiv Sharma, Advocate for the petitioner.

SNEH PRASHAR, J.

By way of this petition, the petitioner has sought quashing/ setting aside of the order dated 15.02.2016 passed by learned Additional District Judge, Faridabad and the orders dated 10.02.2012, 27.08.2013 and 21.08.2012 passed by respondent No.2-The Authority under the Payment of Wages Act, 1936, Circle-III, Faridabad (hereinafter referred to as “the Authority”).

The relevant facts are that respondent No.1-Sanjay Singh was employed with the petitioner-company and had received all his dues till end of December, 2011. In January, 2012 he worked only for 16 days i.e. from 1st to 12th and then from 18th to 21st and remained absent from 13th to 17th and thereafter neither joined his duties nor came to collect his wages/salary amounting to Rs.5390/- lying with the petitioner-company as unpaid.

Messages were sent by the petitioner-company to respondent No.1 for

receiving the dues but he did not turn up. In May, 2012 the petitioner received notice of the claim application from respondent No.2-Authority and engaged Shri G.D. Verma, Advocate and handed over to him the relevant documents, who assured that the claim application is premature and would most probably be dismissed. It was on his assurance that the petitioner company did not attend the proceedings before the Authority and then with passage of time the matter slipped from its mind. No information was given by Shri G.D. Verma regarding his non appearance, due to which the Authority proceeded exparte against petitioner vide order dated 21.08.2012 and passed final order dated 27.08.2013.

The submissions made by Mr. Rajiv Sharma, learned counsel representing the petitioner have been considered.

Learned counsel submitted that the petitioner had no knowledge of the exparte proceedings and it was in the third week of October, 2014 when notice for recovery of Rs.25,177/- with interest at the rate of 12% per annum was received and on inspection the petitioner came to know about the exparte order. Immediately thereafter the petitioner filed an application before respondent No.2-authority for setting aside the exparte order dated 21.08.2012 and all other proceedings including final exparte order dated 27.08.2013, but its application was dismissed vide order dated 10.02.2015 and the appeal filed by the petitioner against the said orders was also dismissed by learned Additional District Judge, Faridabad vide order dated 15.02.2016.

Learned counsel contends that the petitioner has issued notice to Shri G.D. Verma, Advocate who on his own in another case bearing

which led to passing of adverse orders were passed against the petitioner and ultimately that application was restored vide order dated 16.01.2015 issuing show cause notice to Shri G.D. Verma, Advocate.

As observed by learned appellate Court in its order the petitioner had taken two stands. On the one hand, it is stated that Shri G.D. Verma, Advocate had forged the signatures of Sanjay Sethi of the company on his Power of Attorney (Vakalatnama) and on the other it says that the company had engaged Shri G.D. Verma, Advocate but he intentionally did not appear before the Authority. The contradictory stands taken by the petitioner demolishes its plea that its absence was unintentional. Otherwise also, intimation letter No.1711 dated 18.09.2013 of the exparte order was sent to the petitioner company by respondent No.2-Authority which was received by one of its employee.

Learned appellate Court rightly observed that the application filed by the petitioner for setting aside exparte order as well as judgment and decree was time barred. In addition to the same, after consideration of explanation given by the party concerned for its absence, if it found that there was reasonable ground for non appearance of the party, the Court can allow the appeal or the application and condone the delay. Be that as it may, the fact is that pendency of the petition was in knowledge of the petitioner-company but they never bothered to enquire about its proceedings. It has come in the order dated 10.02.2015 passed by the Authority that after the exparte order was announced on 27.08.2013, letter No.1711 dated 18.09.2013 intimating the exparte order to the petitioner-company was issued by the said Authority which was received by an employee of the company on 19.09.2013.

Thus, finding no illegality or perversity in the order dated 15.02.2016 passed by learned Additional District Judge, the instant petition is dismissed.

(SNEH PRASHAR)
JUDGE

16.02.2017.
jitender sharma

Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No