

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

CR No.6683 of 2017
Date of decision : 27.09.2017

Sham Dass @ Shyam Dass

...Petitioner

Versus

Suraj Parkash and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ajay Kumar Kansal, Advocate for the petitioner.

ANIL KSHETARPAL, J. (ORAL)

Defendant No.17 is in revision petition against the order dismissing the application for setting aside the ex parte order.

The plaintiff had filed a suit for partition and permanent injunction in which most of the defendants were proceeded ex parte. The trial Court while dismissing the application has noticed that the defendant-applicant has already joined the proceedings and his presence has been recorded.

It is well settled that the defendant who has been proceeded ex parte is entitled to join the proceedings from the current stage.

Learned counsel for the petitioner has informed to this Court that since most of the defendants were proceeded ex parte, therefore, the trial Court has now fixed the case for consideration, however no evidence has been recorded.

Keeping in view the aforementioned facts, no prejudice would be caused to the plaintiff if defendant No.17 is permitted to file written statement and join the proceedings henceforth.

Taking into consideration the facts available on the file and the contention raised, the petitioner-defendant No.17 is permitted to file the written statement and join the proceedings henceforth. However, such opportunity would be subject to the payment of costs of ₹5,000/-.

Since, I have passed this order without issuance of the notice to the other party, therefore, the plaintiff would be at liberty to move an application for recall of the same, if so advised.

In view of the above, the impugned order is set aside.

Revision petition is allowed.

27.09.2017

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No