

C.R. No. 820 of 2017

(1)

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

C.R. No. 820 of 2017

DATE OF DECISION:06.02.2017

Sandeep

.....Petitioner

Versus

Sunita and others

.....Respondents

**BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY**

Present:- Mr. Sunny Bhardwaj, Advocate  
for the petitioner.

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**DAYA CHAUDHARY, J.**

Learned counsel for the petitioner contends that only on 10.2.2015, the petitioner and proforma respondents were given last opportunity to adduce their evidence on 24.2.2015 and on that day neither the petitioner nor his counsel could appear and accordingly they were proceeded ex parte and award was also passed. Learned counsel further contends that no opportunity was granted to the petitioner to adduce the evidence and even the application filed by him for setting aside ex parte award has been dismissed without taking into consideration the submissions made in the application. Learned counsel also submits that the counsel before the Court below had advised the petitioner not to appear on each and every date and on the date fixed neither the counsel appeared nor the petitioner. The petitioner should not be made to suffer because of non-

action on the part of the counsel.

Heard the arguments advanced by learned counsel for the petitioner and have also gone through the impugned order and other documents available on the file.

Admittedly, the petitioner appeared on 10.2.2015 and only one and last opportunity was granted to adduce evidence on 24.2.2015. On 24.2.2015, neither the petitioner nor his counsel appeared and the impugned award was passed ex parte. Even while dismissing the application for setting aside the award simply it has been mentioned that the petitioner was given last opportunity but he did not appear and he was proceeded ex parte. The impugned order dated 25.10.2016 is totally non-speaking and has been passed without taking into consideration the stand taken by the petitioner. It cannot be said that it was the last opportunity as only one date was given from 10.2.2015 to 24.2.2015 and he could not come present. The petitioner cannot be penalized for the fault of the lawyer as he was also not present.

Accordingly, without issuing notice to the other party as it will not only delay the matter but will also burden unnecessary expenses on the other party, the present petition is allowed and impugned orders dated 24.2.2015 and 25.10.2016 are set aside. Learned MACT, Hisar is directed to allow the petitioner one effective opportunity to lead evidence subject to deposit of cost of ₹ 2000/- as costs.

February 06, 2017  
pooja

**(DAYA CHAUDHARY)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

Yes  
Yes