

118.

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

CIVIL REVISION-1121-2018

Date of decision:19.02.2018.

ENGLESH SINGH

... Petitioner

Versus

INDERPAL EDUCATION SOCIETY AND ORS

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

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

HARI PAL VERMA, J.(Oral)

Petitioner-plaintiff has filed present revision petition under Article 227 of the Constitution of India impugning the order dated 09.11.2017 (Annexure P-1) passed by learned Civil Judge (Junior Division), Rewari, whereby the application filed by the respondent-defendants was allowed and ex parte proceedings initiated against them, were set aside.

Learned counsel for the petitioner has argued that in a separate proceeding initiated under Section 138 of Negotiable Instruments Act, the factum of filing of the present suit had come to the knowledge of respondent-defendants on 29.11.2014, whereas the present application for setting aside the ex-parte order dated 30.07.2014 was filed on 23.10.2017 i.e. after an inordinate delay. Therefore, the civil court has committed illegality by setting aside the ex-parte order after such a long delay. He has further argued that even at the time of filling of application seeking setting aside ex-parte order, no application under Section 5 of Limitation

Act so as to condone the delay was ever filed by the defendants.

I have heard learned counsel for the petitioner.

Admittedly, proceedings under Section 138 of the Negotiable Instruments Act are pending between the parties and the present petitioner-plaintiff had filed a suit for declaration and permanent injunction to the extent that the sale deed executed by the petitioner-plaintiff is null and void as he has not received the sale consideration from the respondent-defendants.

Considering the fact that other proceedings are pending between the parties and the fact that instead of getting the suit decided on technicalities, it can be decided on merits, this Court finds that there is no illegality in the order dated 09.11.2017 passed by learned Civil Judge (Junior Division), Rewari, Moreover, on account of harassment so meted out to the petitioner, the trial Court has already imposed a cost on the respondent-defendants.

Accordingly, present petition is dismissed.

(HARI PAL VERMA)
JUDGE

19.02.2018
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No