

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

CR No. 4910 OF 2018(O&M)

Date of decision: 02.08.2018

Sanjay Garg

.. Petitioner

vs.

M/s DGM Rubber Works, Kapra Colony, Faridabad

.. Respondent

Coram: Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr.Nihul Pratap Singh, Advocate
for the petitioner.

Harinder Singh Sidhu, J.

This revision petition has been filed by the petitioner impugning the orders of the Courts below whereby the application of the petitioner for setting aside the ex-parte decree has been dismissed.

The plaintiff(respondent herein) had filed a suit for recovery of Rs.1,00,000/- against the defendant(petitioner herein) on 09.02.2010. Notice was served on the petitioner requiring him to appear in the Court on 04.08.2010. However, the petitioner did not appear on that date and he was proceeded against ex-parte on 04.08.2010. The case was adjourned for ex-parte evidence of the plaintiff.

On 27.10.2010 the petitioner appeared through his counsel and moved an application for setting aside the ex-parte order, which was allowed on 3.11.2010. Thereafter, the case was adjourned to 14.12.2010 for filing written statement. As on 14.12.2010 neither the petitioner nor his counsel appeared, he was again proceeded against ex-parte. The plaintiff was called upon to lead its ex-parte evidence. The case was ultimately decreed on 01.10.2017.

On 16.08.2017 the petitioner filed an application for setting aside the order dated 14.12.2010 and the ex-parte judgment and decree dated 01.10.2012 which was dismissed on 14.03.2018. He preferred an appeal which was dismissed on 5.4.2018.

It was the case of the petitioner that he was not informed by his counsel about the ex-parte proceedings initiated against him. He got to know of the passing of the ex-parte judgment and decree only on 16.08.2017 when the respondent filed execution of the judgment and decree.

Heard learned counsel for the petitioner.

I find no merit in the present revision petition. Both the Courts below have rightly held that after the initiation of ex-parte proceedings against the petitioner on 14.12.2010, the case remained pending for almost two years. It was disposed of on 1.10.2012. It is highly unbelievable that the petitioner would not enquire from his counsel about the status of his case for about two years. Further even after the passing of the impugned judgment and decree, the petitioner remained silent for another five years. The explanation of the petitioner that he was not aware of the orders is not convincing.

There is no infirmity in the impugned orders.

Dismissed.

02.08.2018
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(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No