

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

**Civil Revision No.6769 of 2015 (O&M)
Date of Order:06.03.2018**

Chet Ram

..Petitioner

Versus

Gram Panchayat Kishanpur and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ramneek Vasudeva, Advocate,
for the petitioner.

Mr. Sudhir Kumar Pandey, Advocate,
for respondent no.1.

ANIL KSHETARPAL, J (Oral)

Plaintiff-petitioner is in the revision petition against the order passed by the learned trial court allowing the application under Order 9 Rule 13 of the Code of Civil Procedure filed by the Gram Panchayat, setting aside the ex-parte decree thereby granting opportunity to the Gram Panchayat to contest the suit on merits.

Learned counsel for the petitioner has vehemently argued that the Gram Panchayat could not prove the assertions made in the application for setting aside the ex-parte decree. Learned counsel has submitted that the Gram Panchayat while filing an application had attributed that the Panchayat came to know of the ex-parte decree when the Block Development and Panchayat Officer telephonically informed the office bearers of the Gram Panchayat. He has submitted that the aforesaid Block Development and Panchayat Officer has not been produced in evidence.

On the other hand, learned counsel for respondent no.1 has supported the order passed by the learned trial court and has submitted that

the learned trial court after framing issues and granting opportunities to the parties to lead evidence has come to a conclusion that service of summons on the Gram Panchayat was not proper. He submits that in exercise of power under Article 227 of the Constitution of India, this Court should not interfere with the findings of fact arrived at by the learned trial court while setting aside the ex-parte decree.

This court has considered the argument of learned counsel and with their able assistance gone through the impugned order passed by the court.

The court has noticed that the Gram Panchayat was summoned through Balbir Singh, who appeared in the court and stated that he is an Ex Sarpanch and not authorised to represent the Gram Panchayat and appropriate person may be summoned. However, despite that fact, the court proceeded ex-parte against the Panchayat. Panchayat is a representative body for the residents of the village. As per the provisions of Haryana Panchayati Raj Act, after every 5 years there is an election and office bearers are chosen. In the suit, the summons were sent to a Sarpanch who has already demitted his office. The court ought to have directed the plaintiff to implead the Gram Panchayat through the then Sarpanch. A look at the memorandum of parties show that the Gram Panchayat was impleaded through Balbir Singh. Once Balbir Singh, Sarpanch appeared in the court and made a statement that the court ought to have directed the plaintiff to correct the memorandum of parties and impleaded the Gram Panchayat through new Sarpanch.

In view thereof, there is no scope for interference in the impugned order passed by the learned trial court.

The revision petition is dismissed.

However, taking into consideration that the suit was instituted in the year, 2004, for damages, this Court is of the considered opinion that the learned trial court should expeditiously disposed of the suit after granting opportunity to the parties to lead their evidence. It is expected that the learned trial court would make sincere endeavour to dispose of the suit within a period of 6 months from the date of receipt of a certified copy of this order.

March 06, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No