

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

106

FAO-1212 of 2018 (O&M)

Date of Decision:- 26.2.2018

Kamaldeep Singh

... Appellant

Versus

Jeet Kaur and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

Present:- Mr. Jasraj Singh, Advocate, for the appellant.

M.M.S. BEDI, J.

Respondent No.1, maternal grand-mother of minor children Gurshanveer Singh and Damanpreet Kaur, son and daughter of appellant had filed a petition under Section 8 of the Hindu Minorities and Guardianship Act, 1956, read with Section 29 of the Guardian and Wards Act, 1890 for appointing her as legal guardian for the person and property of the minors by impleading General Public. The General Public was proceeded against ex parte.

The appellant claims that being father and natural guardian, he had intentionally not been made a party in the Court at Mukerian. As such, a serious prejudice has been caused to his legal rights. It has also been submitted that the appellant himself has filed a petition under Section 7 of the Guardian and Wards Act. It is also submitted that appellant has also filed a petition under Section 10 and 25 of the Guardian and Wards Act before the Court of competent jurisdiction at Dasuya, District Hoshiarpur, which petition was required to be taken up by one Court.

We have considered the contention of learned counsel for the appellant and find that the Court of competent jurisdiction should have been apprised of the pendency of the similar proceedings in two different Courts as per Section 14(1) of the Guardian and Wards Act, 1890.

Since the appellant claims that he was ex parte in the Court at Mukerian, he was not able to apprise the Court at Mukerian regarding the fact that he was pursuing his remedy in appropriate proceeding before the Court at Dasuya. We are of the considered opinion that the appellant has got a right to seek the setting aside of ex parte order dated 2.11.2016 passed by the Additional Civil Judge (Sr. Div.), Mukerian, taking all the pleas raised in the present appeal. Besides this, he can also approach the Court at Mukerian and Dasuya to inform pendency of the proceedings in different Courts. The judicial propriety demands that before entering into the controversies of law, the appellant should avail the above said remedies.

Since there is a delay of 376 days in filing of the present appeal, it is observed that the plea of condonation of delay can be raised before the Court below by informing the date of knowledge of the pre-judicial orders passed against the appellant.

With the aforesaid observations, the appeal as well as the miscellaneous applications are disposed of relegating the appellant to avail the alternate remedies.

(M.M.S. BEDI)
JUDGE

(GURVINDER SINGH GILL)
JUDGE

February 26, 2018
mohan

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No