

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 56 of 2019

Date of Decision: 10.01.2019

Surinder Singh

.....Petitioner

Vs.

Dimple Mittal

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Ms. Meena Bansal, Advocate,
for the petitioner.

AMOL RATTAN SINGH, J. (ORAL)

By this petition, the petitioner challenges the order of the learned trial Court [Civil Judge (Junior Division), Ludhiana], dated 31.10.2018, by which the petitioners' application seeking setting aside of the *ex parte* proceedings against him has been dismissed.

As per the impugned order, earlier also the petitioner had been proceeded against *ex parte* on 06.09.2016, after which an application for setting aside that order was filed, which was allowed subject to payment of costs of Rs. 2,500/-.

Thereafter again, not even the written statement having been filed by the petitioner, he was eventually again proceeded against *ex parte* on 12.10.2017, seven months after which he is stated to have filed the application which has now been dismissed vide the impugned order dated 31.10.2018.

It has been observed in the order that even the costs of Rs. 2,500/- earlier imposed were not paid by the petitioner.

However, learned counsel for the petitioner submits that as a matter of

fact, as also stated in the application that has been dismissed, costs had been handed over by the petitioner to his counsel, who thereafter seems to have not deposited the same, and who also did not file the written statement or appear in the case.

Upon query as to the stage of the suit presently, the impugned order being about 02 months and 10 days old, she submits that an application has been filed by the respondent-plaintiff seeking to lead secondary evidence, a reply to which is to be filed by the petitioner-defendant.

To substantiate the aforesaid contention, she has produced in Court today an order passed by the trial Court on 20.12.2018.

That being so and seemingly evidence of the respondent not having been led so far in view of the fact that an application seeking to lead secondary evidence has been filed, this petition is allowed subject to payment of Rs. 20,000/- as costs to the respondent by the petitioner, it being the 2nd time that he has been proceeded against *ex parte*.

Upon the petitioner paying the costs of Rs. 20,000/- and submitting his written statement by the next date of hearing before the trial Court, i.e. by 23.01.2019, the trial Court would proceed with the matter accordingly, thereafter.

It is made clear that if the costs aforesaid are not paid and the written statement is also not filed by the next date of hearing, this order shall be deemed to have not been passed and this petition would be deemed to have been dismissed.

January 10, 2019
nitin/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes