

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

**C.R. No.75 of 2019**

**Date of Decision:10.01.2019**

Deepak Sharma

... Petitioner

Vs.

Vijay Kumar and others

... Respondents

**CORAM : HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present : Mr. Gagandeep Singh Virk, Advocate  
for the petitioner.

**AMOL RATTAN SINGH, J. (Oral)**

By this petition, the petitioner has challenged the order of the Civil Judge (Jr. Divn.), Ludhiana, dated 11.10.2018, by which his application seeking the setting aside of an order proceeding against him ex parte, on 6.3.2018, has been dismissed.

It is stated in the impugned order that on 18.02.2015 summons issued to the applicant/defendant No.3 were duly received back served, with him not having appeared at that stage. Consequently, petitioner-defendant no.3 was ordered to be proceeded against ex parte, after which, on 28.9.2015, he appeared and filed an application for setting aside that order, which was allowed on 21.3.2016, subject to payment of costs.

Thereafter, even by 6.3.2018, the petitioner had not filed a written statement and had remained absent. Consequently, he was again proceeded against ex parte. The inference therefore drawn by the trial Court was that the petitioner intentionally and deliberately remained absent.

Learned counsel for the petitioner submits that even though the written statement was not filed for three years, however for two years an application filed by the petitioner under Order 7 Rule 11 of the CPC was

under consideration before the trial Court. In support of that contention, he points to the order of the trial Court dated 15.1.2018 (Annexure P-2).

Again on a query put by this Court, learned counsel for the petitioner submits that no evidence of the plaintiff has been led so far.

Subject to the aforesaid contention being correct that no evidence has been led by the respondent-plaintiff, this petition is allowed subject further to costs being paid by the petitioner to the tune of ₹ 10,000/- to the respondent-plaintiff and ₹ 5,000/- to respondent no.3, i.e. Defendant no.2 in the suit. The petitioner shall be granted only one opportunity to file his written statement within ten days from today, failing which this order shall be deemed to have not been passed and this petition shall be deemed to have been dismissed.

10.01.2019

rajeev

(AMOL RATTAN SINGH)  
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No