

Jasveer Singh

.....Petitioner

Versus

Gurmeet Kaur and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAURPresent: Mr. S.S. Salar, Advocate
for the petitioner.**NIRMALJIT KAUR, J. (ORAL)**

Mr. Manish Kumar Singla, Advocate has put in appearance on behalf of respondent No.1. No one has appeared on behalf of respondent Nos.2 to 11. Respondent No.1 is only contesting respondent.

The present petition has been filed for setting aside the order dated 25.04.2018 passed by the Civil Judge (Junior Division), Sunam (for short, the trial Court) whereby the application for setting aside the ex-parte proceedings against the petitioner was dismissed.

The facts, in brief, are that one Gurmeet Kaur filed a suit for damages against the petitioner, his wife, father, mother, brother and others on account of murder of her husband Hakam Singh.

The petitioner and the others were proceeded against ex-parte by the trial Court on 20.08.2015. Thereafter, on 26.11.2015 written statement was filed by counsel Mr. Narinder Singh Sidhu on behalf of defendants No.1 to 11. The present petitioner was defendant No.7 in the suit. On the basis of said written statement, the ex-parte proceedings initiated against the petitioner and others was set aside vide order dated

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the petitioner moved an application for setting aside the order dated 20.08.2015 on the ground that neither he had appointed any Advocate nor had given any power of attorney to Mr. Narinder Singh Sidhu, Advocate. It is further stated that he had simply signed the summons received by him in jail and therefore, he did not know what the matter was all about. His application for setting aside the said order has, therefore, wrongly been dismissed on 25.04.2018.

Learned counsel for the parties have been heard.

The arguments of learned counsel for the petitioner is that the petitioner was in jail and therefore, he could not have appointed any counsel and the fact that he had not given any vakalatnama in favour of Mr. Narinder Singh Sidhu, Advocate was considered.

While issuing notice of motion, learned counsel for respondent No.1 has put in appearance and has pointed out that the petitioner was duly served in jail in accordance with law as per under Order 5 Rule 24 of the Civil Procedure Code, 1908 provided for service on the defendant, who is a prisoner in jail. This fact has not been disputed that the petitioner was duly served in jail in accordance with law.

In these circumstances, the petitioner was required to appoint a counsel on his behalf. The petitioner having failed to do so was liable to be in any case proceeded against ex parte. Therefore, the fact that he did not appoint Mr. Narinder Singh Sidhu as Advocate does not change the complexion of the case. This Court may also notice that the petitioner cannot take the plea that he was not aware of what was the case especially taking into account the steps taken by the close family members, who were also his co-defendants and included not only his wife but also his father,

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mother and brother who were also served in the jail but duly appointed their counsel Mr. Narinder Singh Sidhu.

In view of the above as well as taking into account that the application was moved after a gap of almost three years without the same being accompanied by an application for condonation of delay, there is nothing which may enable this Court to interfere in the order dated 25.04.2018 passed by the trial Court.

Dismissed accordingly.

(NIRMALJIT KAUR)
JUDGE

03.07.2019
sandeep

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No