

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

CR-521-2019(O&M)
Date of decision:-6.9.2019

Municipal Council, Rewari

...Petitioner

Versus

Smt.Neetu and another

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Mukesh Kumar Verma, Advocate
for the petitioner.

Mr.Gulshan Nandwani, Advocate
for respondent No.1.

H.S. MADAAN, J.(ORAL)

This revision petition is directed against the order dated 17.10.2018 passed by Additional Civil Judge(Sr.Divn.), Rewari, vide which application for setting aside ex-parte order dated 21.3.2017 has been dismissed.

Briefly stated facts of the case are that plaintiff Smt.Neetu had filed a suit for declaration and permanent injunction against defendants Municipal Council, Rewari and its Executive Officer/Secretary. On getting notice, the defendants had appeared. However, during pendency of the suit the defendants were proceeded against ex parte on 16.9.2015. The plaintiff adduced some ex-parte evidence. When on 20.11.2015 on an application having been filed

by defendants, which was not opposed by counsel for the plaintiff ex-parte order dated 16.9.2015 was set aside subject to the payment of cost of Rs.1,200/- vide order dated 15.7.2016. However, on 21.3.2017, the defendants had not appeared and cost of Rs.1,200/- was not paid. Written statement was not filed. Therefore, the defendants were proceeded against ex-parte.

An application for setting aside the ex-parte order dated 21.3.2017 was moved by the defendants for the reason that counsel for the defendant was busy in some other Court, as such he could not appear in the case. That application was declined by the trial Court vide the impugned order leaving the defendants aggrieved and they have challenged the order by way of filing of revision petition, notice of which was given to the plaintiff/respondent, who has appeared through counsel.

I have heard learned counsel for the parties besides going through the record. No doubt the conduct of the revisionists-defendants has been quite negligent but at the same time it is always desirable to decide a *lis* on merits rather than non-suiting a litigant on technical points. Therefore, the interest of justice demands that defendants should be given an opportunity to contest the suit. As such the revision petition is accepted.

Resultantly, the impugned order is set aside, subject to the payment of Rs.10,000/- as cost out of which Rs.5,000/- be

deposited with the District Legal Aid Services Authority, Rewari and Rs.5,000/ be paid to the plaintiff, which would include the cost of Rs.1,200/- imposed upon the defendants by the trial Court, which is stated to have not been paid by the defendants so far.

The parties are directed to appear before the trial Court on 30.9.2019.

6.9.2019
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No