

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

CR No.6881 of 2017
Date of Decision : 01.02.2019

Rita Angrish

...Petitioner

Versus

Jagjit Singh

....Respondent

CORAM : HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. B.P.S. Dhaliwal, Advocate for the petitioner.

Mr. Aayush Gupta, Advocate for the respondent.

B.S.WALIA, J. (Oral)

1. Challenge in the revision petition is to order dated 08.09.2017 (Annexure P/1), passed by the learned Addl. Civil Judge (Senior Division), Samrala, setting aside ex parte proceedings ordered against the respondent-defendant vide order dated 10.05.2013 and granting opportunity to the respondent-defendant to file written statement.

2. A perusal of the paperbook reveals that the petitioner-plaintiff filed a civil suit at Khanna and the respondent-defendant appeared in the said case upto 14.03.2012, where after the case was transferred to the Civil Courts at Samrala on 19.03.2012. On 24.03.2012, the file was received by the learned Addl. Civil Judge (Senior Division), Samrala, who ordered that notice be issued to both the parties. Notice issued to both the parties was served on 11.06.2012 but despite having received notice none put in appearance on behalf of the respondent-defendant. Eventually, the respondent-defendant was proceeded ex parte on 10.05.2013. Thereafter,

the petitioner-plaintiff led evidence but on 10.07.2015, the civil suit was dismissed in default. On application having been filed for restoration of the suit dismissed in default, notice was issued to the respondent-defendant, who put in appearance on 17.03.2016. Eventually the suit was restored on 03.04.2017, where after an application was moved on 06.07.2017 for setting aside of ex parte order and for permission to file written statement.

3. Learned counsel contends that no sufficient cause has been made out in the application seeking setting aside of the ex parte proceedings ordered against the respondent-defendant, therefore, impugned order setting aside ex parte proceedings ordered on 10.05.2013 and granting liberty to the respondent-defendant to file written statement subject to payment of costs of ₹500/- as costs is legally unsustainable.

4. Per contra, learned counsel for the respondent-defendant has reiterated the reasoning for the passing of the impugned order and prayed for dismissal of the revision petition.

5. At this stage, learned counsel for the petitioner states that the petitioner would not oppose the upholding of the impugned order subject to enhancement of costs which was woefully inadequate besides decision of the suit for specific performance being made time bound. Same is not opposed to by learned counsel for the respondent-defendant.

6. In the light of the position as noted above, the impugned order is upheld with the modification to the extent that as against costs of ₹500/- imposed for setting aside of order dated 10.05.2013, respondent-defendant shall pay costs of ₹11,000/- to the petitioner-plaintiff, besides the learned

trial Court shall expeditiously decide the case preferably within a period of six months from the date of receipt of copy of this order.

7. Revision petition disposed of in aforementioned terms.

(B.S.WALIA)
JUDGE

01.02.2019
rajesh.k.khurana

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No