

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 111

Case No. : C. R. No. 2020 of 2019 (O&M)

Date of Decision : April 03, 2019

Dr. Tirlok Chand Petitioner

vs.

Punjab Wakf Board, Chandigarh Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

Present : Mr. Paramjit Singh Jammu, Advocate
for the petitioner.

* * *

DEEPAK SIBAL, J. (Oral) :

The present petition is directed against the order dated 04.01.2018 passed by the Civil Judge (Junior Division), Faridkot (for short – the Trial Court), through which an application filed by the petitioner under Order 9 Rule 13 CPC has been dismissed. Also under challenge is the order dated 15.10.2018 passed by the Additional District Judge, Faridkot (for short – the Appellate Court) dismissing the petitioner's appeal filed by him against the aforesaid order dated 04.01.2018 passed by the Trial Court.

On 02.03.2012, respondent filed a suit seeking therein ejectment of the petitioner as also one Ramesh Kumar from a shop, the measurement and details of which were given in the head note of the plaint

(for short – the suit property). Recovery of Rs.5,00,000/- as compensation for illegal use and occupation of the suit property along with interest was also sought.

On being put to notice, the petitioner, who was defendant no. 2 in the suit, appeared before the Trial Court. He was granted as many as four opportunities to file his written statement but he failed to do so. Thereafter, his counsel absented himself from the court proceedings leading to the passing of the order by the Trial Court dated 21.08.2012, through which the petitioner was proceeded against ex-parte. Thereafter, the respondent led evidence, on the basis of which, the respondent's suit was decreed on 10.08.2015. On 22.09.2016, the petitioner filed an application seeking therein to set aside the order dated 21.08.2012, through which he was proceeded against ex-parte, as also the ex-parte judgment and decree dated 10.08.2015 passed against him. Such application was dismissed by the Trial Court. The petitioner filed an appeal against the dismissal of his application which was also dismissed.

Learned counsel for the petitioner has been heard.

It is not disputed that the petitioner was aware of the filing of the suit against him. In fact, on being put to notice, he appeared before the Trial Court through his counsel. After such appearance, he had also sought and got four opportunities to file his written statement but to no avail. Thereafter, neither he nor his counsel bothered to appear before the Trial Court leading to the passing of the order by the Trial Court on 21.08.2012

through which he was proceeded against ex-parte. On the basis of ex-parte evidence led by the respondent, the respondent's suit was thereafter decreed on 10.08.2015.

After 04 years of the passing of ex-parte order and over one year of the ex-parte decree, the petitioner filed his application dated 22.09.2016 seeking therein setting aside of the ex-parte proceedings against him.

Once the petitioner was aware of the proceedings pending against him and thereafter never bothered to defend such proceedings, it is only he who has to suffer for such inaction on his part, especially when the setting aside of ex-parte proceedings are sought by the petitioner after a delay of four years without any explanation for such delay.

In view of the above, the concurrent findings recorded by the Trial Court as also the Appellate Court warrant no interference.

Dismissed.

(DEEPAK SIBAL)

JUDGE

April 03, 2019

monika

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.