

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

CR-2866-2021(O&M)

Date of decision:-18.11.2021

Bibi Sangeeta @ Sangeeta Jolly and another

...Petitioners

Versus

Maulvi Obesur Rehman and others

...Respondents

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

Present: Mr.Rajneesh Madhok, Advocate
for the petitioner.

H.S. MADAAN, J.(ORAL)

1. This revision petition has been filed by revisionist/plaintiffs Bibi Sangeeta @ Sangeeta Jolly and her husband Deepak Jolly against order dated 12.10.2021 passed by Civil Judge (Jr.Divn.), Phagwara, District Kapurthala vide which he had allowed application filed by defendant No.12 Punjab Wakf Board under Order 9 Rule 7 CPC for setting aside ex-parte proceedings.
2. Briefly stated, the facts of the case are that plaintiffs had brought a suit for permanent injunction against defendants Maulvi Obesur

Rehman and others including Punjab Wakf Board, Chandigarh through its Chief Executive Officer; notice of the suit was given to defendants; since despite service nobody had appeared for defendant No.12 in the Court on 1.3.2021, such respondent was proceeded against ex-parte. Subsequently, such defendant filed an application under Order 9 Rule 7 CPC for setting aside of ex-parte proceedings contending that counsel for the defendant No.12 had remained ill and was bed-ridden, therefore, he could not file vakalatnama in the Court on the date fixed; further the case was at initial stage and no prejudice is going to be caused to the case of the plaintiffs, if ex-parte proceedings were set aside.

3. The application was hotly contested by the plaintiffs. However, the trial Court vide impugned order had accepted the application and allowed defendant No.12 to join the proceedings, which left the plaintiffs aggrieved and they have filed the present revision petition.

5. I have heard learned counsel for the revisionist besides going through the record and I do not find any merit in the revision petition.

6. For ready reference, the operative part of the impugned order runs as follows:

4. Heard, case file perused. Perusal of the file reveals that case was fixed for service of defendant No.7 and for filing written statement on behalf of appearing defendants when instant application is moved and since the case is at its initial stage. Moreover, administration of justice demands that no person shall be heard at back and case should be decided on merit. In interest of

justice this Court deems it fit that opportunity must be given to the defendant No.12/applicant of being heard. So, instant application is allowed subject to payment of cost Rs.1,000/- to be paid to plaintiff/respondent. Now to come up on 2.11.2021 for filing written statement on behalf of appearing defendants.

7. The plaintiffs have been adequately compensated for the delay by directing defendant No.12 to pay cost of Rs.1,000/- to them.

8. I find that the impugned order passed by the trial Court is detailed and well reasoned, which does not suffer from any illegality or infirmity and no interference therewith is called for while exercising jurisdiction under Article 227 of the Constitution of India.

9. Thus, finding no merit in the civil revision petition, the same stands dismissed.

18.11.2021
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No