

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

CR-3078-2021 (O&M)

Date of Decision: December 22, 2021

Kulvir Singh

...Petitioner

VERSUS

Gurdial Kaur and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.J.K.Singla, Advocate
for the petitioner.

ARCHANA PURI, J.

The matter has been taken up through video conferencing in the light of COVID-19 pandemic.

Through the present revision petition, the petitioner has sought issuance of directions to modify/set aside the impugned order dated 08.11.2021 passed by learned Civil Judge (Sr. Divn.) Phul, in Civil Suit No.407 of 2016/File No.181 dated 29.09.2016 titled as 'Gurdial Kuar vs. Pritam Kaur etc.'.

A perusal of the record reveals that Gurdial Kaur had filed a suit, seeking declaration against Pritam Kaur and others and present petitioner was also impleaded as defendant No.2, in the said suit. During the course of proceedings, present petitioner was proceeded against ex-parte vide order dated 11.11.2016. Thereafter, he had filed an application for

setting aside of the ex-parte proceedings and vide impugned order dated

08.11.2021, the present petition was only *allowed to join the proceedings of the present case from the stage at which the case was pending at the time of his appearance in the court i.e. at the stage of rebuttal and arguments.*

Feeling aggrieved by the aforesaid order, the petitioner has filed the present revision petition.

A perusal of the impugned order reveals that defendant No.2, despite service, did not make appearance before the Court and was proceeded against ex-parte vide order dated 11.11.2016. In the application, the petitioner had asserted, about having come to know about the ex-parte proceedings on 14.09.2019. Further, the application for setting aside the ex-parte proceedings has also been placed on record as Annexure P-3 and perusal of the same reveals that it was filed on 16.09.2021. The aforesaid dates, as such, have not been disputed by learned counsel for the petitioner. It itself shows that, after 11.11.2016, when the petitioner was proceeded against ex-parte, he had only knocked the door of the Court on 16.09.2021. He did not remain vigilant. Though, in the application, he had stated that it was due to his own domestic problems that he could not pursue the case but however, no such justifiable reason is coming forth, for sleeping over the matter, for such a long time. In view of the same, learned lower Court has justifiably allowed the petitioner to join the proceedings, from the stage, at which the case was pending, at the time of his appearance i.e. at the stage of rebuttal and arguments.

Now, it is submitted by learned counsel for the petitioner that an opportunity be provided to the petitioner to file written statement, keeping in view the relief claimed in the suit. However, the said prayer

cannot be accepted, as ex-parte proceedings have not been set aside by learned lower Court. He has only been allowed to join the proceedings, at the stage, where the case was pending, when he made appearance before the Court.

Considering the conduct of the petitioner, learned lower Court has rightly passed the impugned order. There is no merit in revision petition. As such, the same is hereby dismissed.

December 22, 2021
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No