

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

108

**CR-3655 of 2016 (O&M)
Date of decision: 10.11.2022**

Bhupinder

..Petitioner

Versus

Puran Singh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Parvez Chugh, Advocate
for the petitioner.

Mr. BPS Virk, Advocate
for respondent no.1.

ANIL KSHETARPAL, J(Oral)

The petitioner herein is defendant no.2 in a pending suit filed for grant of decree of specific performance of the agreement to sell dated 27.07.2011.

On receipt of notice, the petitioner appeared before the Court but absented on 27.01.2014. He was proceeded against ex-parte. The plaintiff examined his witnesses in ex-parte evidence and closed the oral evidence on 02.09.2014. Thereafter, on 17.10.2014, the defendant no.2/petitioner filed an application for setting aside the ex-parte proceedings. Notice of the application was issued to the plaintiff and reply was sought. However, on 11.05.2015, once again, defendant no.2 (petitioner) failed to appear resulting in continuation of ex-parte proceedings in the suit. The plaintiff while producing documentary evidence has closed his evidence on 10.08.2015 and the case was adjourned for ex-parte arguments. Another application for setting aside the ex-parte proceeding was filed by defendant no.2(the petitioner). On 21.01.2016, once again, the

petitioner did not appear before the Court, resulting in resumption of ex-parte proceedings in the main suit. Thereafter, the petitioner, once again, filed an application for setting aside the ex-parte proceedings on 28.04.2016 which has been dismissed by the Court on the ground that the petitioner has failed to produce any medical record to prove that he was indisposed.

The Court has also held that the petitioner though being aware of the pendency of the suit all along has been appearing and disappearing repeatedly.

This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

Ordinarily, the courts are inclined towards permitting the parties to contest the case on merits by granting them sufficient opportunity to contest. However, in the facts of the present case, the trial court has formed an opinion that the petitioner's conduct does not entitle him to the aforesaid indulgence. Even before this Court, the learned counsel representing the petitioner has failed to draw the attention of the Court to any medical record in support of his submission or given any plausible reason for such conduct.

Hence, no ground to interfere is made out.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

November 10, 2022

(ANIL KSHETARPAL)
JUDGE

nt

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No