

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

108

CR No.8827 of 2017 (O&M)

Date of Decision: 05.04.2022

Principal, Daya Nand Model Senior
Secondary School, Jalandhar

... Petitioner

Versus

State Bank of India and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajdeep Singh Cheema, Advocate,
for the petitioner.

Mr. Umang K.Khosla, Advocate,
for respondent No.1.

Mr. R.S. Bajaj, Advocate,
for respondents No.2 and 3.

ANIL KSHETARPAL, J. (Oral)

1. The petitioner before this Court is the Principal of Senior Secondary School at Jalandhar. She prays for setting aside the order dated 25.09.2017. In fact, the petitioner was proceeded against ex-parte in the suit which resulted into ex-parte judgment and decree. The suit against the petitioner was dismissed. In an appeal, the petitioner was once again proceeded against ex parte. However, the First Appellate Court held that the decree can be executed against the petitioner. An application filed by the petitioner for setting aside ex parte decree by the First Appellate Court has

been dismissed vide order dated 25.09.2017 after noticing that the Clerk of

the petitioner-school received the summon.

2. On 15.12.2017, the following order was passed:-

“Learned counsel for the petitioner submits that Geeta Kohli was an employee of the School and died on 30.3.2009. Her husband's name is given as Ashwani Kumar who has taken all her retiral benefits and the petitioner being a School is not liable for her personal loan taken from the Bank. Learned counsel for the petitioner shall supply address of Ajay Kumar on the next date of hearing.

Notice of motion for 27.3.2018.

In the meantime, execution proceedings against the School shall remain stayed.”

3. Learned counsel representing the petitioner contends that the petitioner under a bona fide belief, that no liability of the erstwhile employee can be ordered to be recovered from the employer, did not put in appearance. He further submit that the ex parte decree against the petitioner is prima facie wrong.

4. Per contra, learned counsel representing the Bank as well as the husband of Geeta Kohli contend that the benefits were released to the husband despite knowledge of the loan.

5. In the facts of the case, this Court is of the considered view that interest of justice will be met, if the petitioner is granted one more opportunity to defend the appeal particularly when neither the school nor the Principal were guarantors nor they had any personal responsibility to discharge the debt of their former employee. Furthermore, there is no material to prove that the Clerk of the school who received the summons, issued to the Principal, was ever authorised to receive the summons or not.

In such institutions efforts must be made to serve the summons on a

responsible officer.

6. Keeping in view the aforesaid facts, the ex parte decree dated 25.09.2015 is set aside. The First Appellate Court is requested to decide the appeal afresh in accordance with law.
7. The parties through their counsel are directed to appear before the First Appellate Court on 20.04.2022.
8. The petition stands disposed of.

05.04.2022
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(ANIL KSHETARPAL)
JUDGE

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