

112 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-843-2020 (O&M)
Decided on : 12.07.2022

Balwan

..... Petitioner

Versus

Raman Kumar

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. J.S.Dadwal, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

The petitioner-defendant is aggrieved against the order dated 20.12.2019 (Annexure P-2) passed by Addl. District Judge, Ludhiana as well as order dated 08.07.2019 (Annexure P-1) passed by Civil Judge (Jr. Divn.) Ludhiana vide which an application moved by the petitioner under Order 9 Rule 13 CPC r/w Section 151 CPC for setting aside the ex parte judgment and decree dated 15.06.2006 was dismissed.

Learned counsel for the petitioner submits that the Courts below while passing the impugned orders failed to appreciate the evidence adduced by the petitioner and hence, they were liable to be set aside being contrary to the law and facts.

Learned counsel further submits that the petitioner neither received summons through the process server nor through registered post or even dasti. Hence, he was unaware about the institution of the suit in question. It was alleged that the petitioner in fact never appeared before the

trial Court and had been impersonated by some person as a result of which his presence stood wrongly recorded in the zimni orders.

Learned counsel still further submits that the petitioner learnt about the ex parte judgment and decree dated 15.06.2006 much later when another suit was filed by him against the respondent herein.

Heard learned counsel and perused the relevant material available on record.

A perusal of the impugned orders reveal that the petitioner put in an appearance before the trial Court on 19.04.2002 and sought an adjournment to file his written statement. On 15.05.2002, since the petitioner again sought time to file reply, the case was adjourned to 29.08.2002. Yet another request to the same effect was made on the adjourned date i.e. 29.08.2002. However, since he failed to file his written statement, his defence was struck off and he was ordered to be proceeded against ex parte for his failure to appear on 03.09.2002. Further more, it would be relevant to point out that the petitioner was duly represented by a counsel before the trial Court. In the circumstances, the submissions put forth by the learned counsel raises eyebrows as admittedly and strangely no action was taken or any complaint made by the petitioner against the alleged impersonator or even the counsel, who had allegedly put in an appearance on his behalf. It may also be observed here that it is a matter of record that the petitioner applied for copy of orders dated 19.04.2002, 03.09.2002, his statement dated 20.08.2002, statements dated 05.03.2002 and 19.04.2002 etc. In the circumstances, even as per the provisions of Article 123 of the Limitation Act, the application filed under Order 9 Rule 13 CPC for setting

aside of the ex parte judgment and decree dated 15.06.2006, is time barred being much beyond the prescribed limitation period.

The present petition being devoid of any merit, stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

12.07.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No