

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

**CR No.828 of 2020 (O&M)
Date of Decision: 06.12.2022**

Ravjinder Kaur Sidhu

..... Petitioner

Versus

S. P. Garg and others

..... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sharad Mehra, Advocate
for the petitioner.

Mr. Chetan Bansal, Advocate
for respondent No.1.

MANJARI NEHRU KAUL J. (Oral)

The petitioner has filed the present petition under Article 227 of the Constitution of India is for quashing/setting aside the order dated 20.01.2020 (Annexure P-1) passed by the learned Civil Judge (Senior Division), Amritsar, vide which his application under Order IX Rule 7 CPC (Annexure P-9) was partly allowed. A prayer has also been made for setting aside the order dated 20.08.2019 (Annexure P-8) vide which the petitioner was ordered to be proceeded against *ex parte*.

Learned counsel appearing for the petitioner submits that the trial Court allowed the petitioner to join the proceedings vide the impugned order. However, it erred in denying the petitioner an opportunity to file her written statement.

Learned counsel while drawing the attention of this Court to the zimni orders which have been annexed as (Annexure P-4)

submitted that initially the petitioner was not arrayed as a defendant when the suit in question was instituted and was impleaded only subsequently vide order dated 06.05.2017, on an application moved under Order I Rule 10 CPC by respondent No.1. It was submitted that in the amended plaint (Annexure P-2) which was filed by respondent No.1, a wrong address of the petitioner was given as it was a matter of record that she was a permanent resident of Amritsar and not Bathinda. It was thus urged that it was on account of the wrong address given, the petitioner was never served with the summons of the suit and resultantly, she could not put in an appearance before the trial Court on the date fixed for her appearance.

Learned counsel for the petitioner prayed that the non appearance of the petitioner was neither intentional nor because of any mala fides and in case she was not granted an opportunity to file her written statement, she would suffer irreparable loss.

Per contra, learned counsel appearing for respondent No.1 while controverting the submissions made by the counsel opposite, has submitted that the petitioner was well aware about the pendency of the suit in question as her husband was impleaded as defendant No.2 in the same suit. Therefore, the petitioner could not be permitted to take the plea of she having not been duly served. A prayer was thus, made for dismissal of the instant petition.

I have heard learned counsel for the parties and perused the relevant material on record.

Admittedly, the petitioner was not a party to the suit in

question at the time of its institution and it is a matter of record that she was arrayed as a defendant subsequently. It is also a matter of record that the address of the petitioner has been wrongly mentioned in the amended plaint. No doubt, the husband of the petitioner is also a defendant in the suit in question, however, be that as it may, the trial is still at an initial stage and if the petitioner is not granted an opportunity to file her written statement, she would indeed suffer irreparable loss.

As a sequel to the above, the instant petition is allowed.

The petitioner shall file her written statement on the next date of hearing fixed before the trial Court.

(MANJARI NEHRU KAUL)
JUDGE

06.12.2022

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