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

CR No.2258 of 2019 (O&M)

Date of decision: 23.08.2022

The Gurgaon Dist. Primary Co-operative Agri. & Rural Bank Ltd.
Gurgaon

....Petitioner

Versus

Attar Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Atul Yadav, Advocate
for the petitioner.

ARVIND SINGH SANGWAN J. (Oral)

As per the office report, the respondent has been served,
however, there is no representation on his behalf.

Prayer in this petition is for setting-aside the order dated
22.08.2017 (Annexure P2) passed in the civil suit filed by the
respondent/plaintiff against the petitioner/Bank praying for a decree of
permanent injunction with regard to alienation of the land which stands
mortgaged with the petitioner/Bank on account of obtaining a loan of
Rs.3.00 lacs and the petitioner/defendant was proceeded ex parte vide
the aforesaid impugned order dated 22.08.2017.

The another prayer in this petition is to set-aside the order
dated 12.03.2019, vide which the application filed by the petitioner for
setting-aside the said order was declined.

As noticed above, the respondent/plaintiff is duly served,
however, nobody is putting in appearance and the present petition is
pending since 2019.

Vide order dated 03.04.2019, while issuing notice of motion, the trial Court was directed to adjourn the case beyond the date fixed.

Counsel for the petitioner has argued that in fact, 02 civil suits were filed, one by the father of the respondent/plaintiff and the other by the respondent/plaintiff himself. The suit filed by the father of the respondent/plaintiff is being contested by the Bank whereas in this suit, on account of non-appearance of the petitioner/defendant i.e. Bank, the impugned order dated 22.08.2017, was passed ordering ex parte against the petitioner/defendant/Bank and an application was moved for setting-aside the same, however, the said application was erroneously declined by the trial Court.

Since no one on behalf of the respondent/plaintiff has opted to contest this petition, it will be in the interest of justice to set-aside the ex parte proceedings so that the trial Court may decide the suit on merits, after affording an opportunity of hearing to the petitioner/defendant/Bank, who has granted loan to the respondent/plaintiff.

Accordingly, the present petition is allowed and the orders dated 22.08.2017 and dated 12.03.2019, passed by the Civil Judge (Jr. Division) Pataudi, are set-aside.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

23.08.2022

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No