

In the High Court of Punjab and Haryana, at Chandigarh

Civil Revision No. 4083 of 2019

Date of Decision: 14.09.2022

Gurmit Singh

... Petitioner(s)

Versus

Harjinder Singh

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Suneet Pal Singh Aulakh, Advocate
for the petitioner(s).

Mr. Swaran Tiwana, Advocate
for the respondent.

Anil Kshetarpal, J.

1. The petitioner herein is a defendant in a suit filed by the respondent/plaintiff for recovery of a sum of ₹11,72,000/- approximately. Pursuant to the notice, the defendant appeared and filed his written statement. On 10.07.2014, the Advocates had suspended the work. The trial Court, after noticing this fact, proceeded *ex parte* against the defendant on the ground that he was not personally present before the Court. It is not in dispute that he was represented by a counsel. There is no evidence that the defendant was informed of the suspension of work by the learned counsels.

2. The suit was decreed *ex parte* on 30.07.2014 i.e. within a period of 20 days from the date he was proceeded against *ex parte*. On 02.09.2014, the petitioner has filed an application under Order IX Rule 13 CPC, which was dismissed being time barred. It is the case of the petitioner that he was

informed that the next date of hearing was 01.08.2014. When he came to the

court premises on 01.08.2014, he was shocked to know that the suit stood decreed on 30.07.2014. He, immediately, applied for a certified copy of the judgment and decree, which was delivered to him on 22.08.2014. Thus, the period for getting a certified copy of the *ex parte* judgment and decree was required to be excluded for calculating the period of limitation. The petitioner has appeared in evidence as AW.1 and has stated that he was informed by his counsel that the case stood adjourned to 01.08.2014. The limitation is required to be calculated from the date of knowledge while excluding the period taken by the office in preparing the certified copy of the judgment and decree.

3. It is well settled that the rules of procedure are the handmaids of justice. It is not the case of the plaintiff that the defendant was habitually defaulting from appearance before the Court on various dates of hearing in the suit. No previous default on the part of the petitioner has been brought to the notice of the trial Court.

4. Keeping in view the aforesaid facts, the present revision petition is allowed. Both the orders passed by both the Courts below are set aside. The *ex parte* decree shall stand annulled. The defendant shall be relegated to the position as on 14.05.2014.

(Anil Kshetarpal)
Judge

September 14, 2022

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No