

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

CR-5439-2022(O&M)

Date of decision:-23.11.2022

Bhanwarpreet Singh Sandhu

...Petitioner

Versus

Gurpreet Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Karanbir Singh, Advocate
for the petitioner.

H.S. MADAAN, J.(ORAL)

1. This revision petition is preferred by Bhanwarpreet Singh Sandhu, who was defendant in civil suit bearing CIS No.616 of 2018 for recovery filed by plaintiff Gurpreet Singh, arrayed as a respondent in the present petition, feeling aggrieved by order dated 13.5.2022 passed by Additional Civil Judge (Sr.Divn.), Fatehgarh Sahib vide which the application filed by the revisionist/defendant under Order 9 Rule 13 CPC seeking setting aside of ex-parte judgment and decree dated 9.7.2019 had been dismissed as well as order dated 28.10.2022 passed by District Judge, Fatehgarh Sahib vide which appeal filed by the revisionist/defendant against such order passed by ACJ(SD), Fatehgarh Sahib had been dismissed.

2. Briefly stated, facts of the case are that plaintiff Gurpreet Singh had brought a suit for recovery of Rs.7,07,498/- as principal amount and Rs.1,83,400 as interest thereon @ 12% per annum, on account of loss suffered by him due to negligent act and conduct of defendant with regard to potatoes of plaintiff stored in cold store of defendant.

3. Notice of that suit was given to the defendant, who put in appearance through counsel but subsequently since there was no representation on his behalf, he was proceeded against ex-part vide order dated 27.11.2018. Thereafter, the defendant put in appearance and ex-parte proceedings against him were set aside vide order dated 12.3.2019. However, once again defendant absented and was proceeded against exparte vide order dated 8.4.2019. After recording evidence, the trial Court vide judgment dated 9.7.2019 decreed the suit of the plaintiff ex-parte. Thereafter, the defendant filed an application for setting aside of ex-parte judgment and decree, which was dismissed vide order dated 13.5.2022 observing the sequence of events including conduct of the defendant in putting in appearance in the Court, absenting being proceeded against ex-parte, again coming then getting absent and being proceeded against ex parte again and not paying the cost of Rs.1,500/- imposed upon him for setting aside of exparte order on 12.3.2019. The conduct of the defendant was noticed that he had not been appearing in the Court despite having full knowledge of pendency of the case and he could not render any reasonable and plausible explanation for his repeated absence from the Court. Therefore, the application for setting aside ex-parte judgment and decree was dismissed.

4. In appeal, learned District Judge, Fatehgarh Sahib also noticed various lapses on the part of the defendant and in light of the legal position came to the conclusion that the trial Court was justified in dismissing the application for setting aside of ex-parte judgment and decree.

5. Now the revisionist by way of filing the present revision petition wants reversal of those two order/judgment and setting aside of ex-parte judgment and decree.

6. I have heard learned counsel for the revisionist besides going through the record and I find that the revision petition is absolutely without merit.

7. A perusal of the file goes to show that defendant despite having notice of the suit and putting in appearance in the Court had been taking the things very casually, appearing in the Court as and when he felt like and thereafter absenting. He did not seem to have proper respect for the sanctity of the Court proceedings as is evident from his frequent absence from the trial Court and non-payment of amount of cost imposed upon him. The plaintiff cannot be made to suffer on account of such conduct of the defendant. There was no justification for setting aside of ex-parte judgment and proceedings and trial Court did not do anything wrong in dismissing the application so filed by the revisionist/defendant and Appellate Court of District Judge, Fatehgarh Sahib had rightly dismissed the appeal preferred by the defendant against the order passed by the trial Court.

8. The order/judgment passed by the Courts below are detailed

and well reasoned without there being any element of arbitrariness. The same do not come out to be suffering from any illegality or infirmity much less apparent on the face of those order/judgment. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order/judgment by way of exercising the revisional jurisdiction.

9. Thus, finding no merit in the civil revision petition, the same stands dismissed.

23.11.2022

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(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**