

117 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-166-2023

Date of Decision: 11.01.2023

Gurjit Singh

..... Petitioner

Versus

Amarjit Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Arun Takhi, Advocate,
for the petitioner.

RAJBIR SEHRAWAT, J. (ORAL)

This is a petition filed under Article 227 of the Constitution of India for setting aside the impugned judgment and decree dated 26.08.2022 (Annexure P-8) passed by the Additional District Judge, Hoshiarpur, as well as the impugned order dated 16.02.2019 (Annexure P-6) passed by the Civil Judge (Junior Division), Hoshiarpur, whereby the application filed by the petitioner under Order 9 Rule 13 CPC has been dismissed; along with certain other prayers.

A perusal of the impugned order shows that the lower Appellant Court has upheld the order passed by the Trial Court not accepting the application for setting aside the ex parte judgment and decree. The basis of dismissal of the appeal by the Court below is the fact that the petitioner was served qua the proceedings of the suit in person. Despite that, he chose not to contest the suit by appearing either in person or through some counsel. Though a counsel had appeared in the first instance, however, after

appearing for some time, even the counsel, statedly, engaged by the petitioner stopped appearing there.

A perusal of the file also shows that the issue was framed by the Trial Court in the application filed by the petitioner qua service of summons upon him, as well as, qua the knowledge of the passing of the order/judgment and decree. However, neither any evidence has been led to rebut the service of summons effected upon the petitioner; nor any evidence has been led qua knowledge of the passing of the judgment and decree. Hence, there is no material on record to support the case of the petitioner.

In view of the above, this Court does not find any illegality or impropriety with the order passed by the courts below. Accordingly, the present petition is dismissed.

(RAJBIR SEHRAWAT)
JUDGE

11.01.2023
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No