

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3437-2018 (O&M)
Date of Decision:-17.08.2023

KIKKAR SINGH

... Petitioner(s)

Versus

HARBANS SINGH AND ORS

... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Ajit Singh Sodhi, Advocate
for the petitioners.

Mr. K.S. Kang, Advocate
for respondents No.1 to 3.

None for respondents No.4(i) (iii), 5 and 7 to 12.

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KARAMJIT SINGH, J. (Oral)

1. The present revision petition has been filed by the petitioner/defendant No.8 with prayer that the impugned order dated 13.12.2017 (Annexure P-1) passed by the Court of Civil Judge (Junior Division), Zira in civil suit titled Harbans Singh and Ors. vs. Bahal Singh and Ors. be set aside.
2. The brief facts of the case are that Harbans Singh and Ors. have filed the aforesaid civil suit with regard to suit property and in the said suit the petitioner is impleaded as defendant No.8 and in the head-note of the plaint, the petitioner has been impleaded only as a proforma defendant.

3. The notice of the suit was issued to the defendants, it is the case of the petitioner that he was wrongly proceeded against ex-parte by the learned trial Court and that he never instructed any Advocate to appear on his behalf and as such Mr. Gurinder Singh Virk, Advocate was having no authority to make any statement before the learned trial Court to the effect that he was having no instructions to appear on behalf of the petitioner.
4. The petitioner was proceeded against ex-parte in the civil suit vide order dated 6.12.2016 and thereafter he filed an application on 11.12.2017 for setting aside the ex-parte proceedings against him and the said application was dismissed by the learned trial Court vide order dated 13.12.2017 (Annexure P-1).
5. The petitioner being aggrieved by the aforesaid order has filed the present revision petition.
6. The counsel for the petitioner submits that there were sufficient grounds to set aside ex-parte proceedings against the petitioner and it is further prayed that petitioner be allowed to file written statement and to contest the suit.
7. The present petition is resisted by counsel for respondents No.1 to 3, who while supporting the impugned order submits that there is no illegality in the same.
8. I have considered the submissions made by counsel for the parties.
9. During arguments, the counsel for the petitioner has admitted that as per head-note of the plaint, petitioner is impleaded as proforma

defendant. It means that the plaintiffs have not sought any effective relief against the petitioner. From the perusal of impugned order, it appears that earlier one Advocate appeared on behalf of the petitioner in the learned trial Court on 21.4.2016 and thereafter, the said Advocate pleaded no instructions on behalf of the petitioner on 17.11.2016 and then the learned trial Court issued fresh notice to the petitioner and as per report, he was served as per provisions of Order 5 Rule 15 CPC and finally proceeded ex-parte on 6.12.2016 and the civil suit progressed ahead and when the suit was fixed for evidence of defendants, on 11.12.2017, an application was filed by the petitioner for setting aside of ex-parte proceedings against him. It appears that the said application was filed at a belated stage. So trial Court rightly declined the said application vide order dated 13.12.2017.

10. In view of the above, as petitioner is proforma defendant and no relief is claimed against the petitioner, the petitioner is not going to suffer any prejudice in case, he is not allowed to file written statement. However, in the interest of justice, the petitioner is allowed to join proceedings in the civil suit, at this stage.
11. The present petition stands disposed of in the aforesaid terms.

17.08.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No