

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

**124**

**2023:PHHC:089839**

**CR-3807-2023(O&M)  
Date of decision: 18.07.2023**

**JAGTAR SINGH**

**..Petitioner**

**Versus**

**SUBHASH CHANDER BATRA AND ANR.**

**..Respondents**

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Fateh Saini, Advocate  
for the petitioner.

**ANIL KSHETARPAL, J(Oral)**

1. Admittedly, the petitioner, who is defendant No.2 in the pending suit, was proceeded ex parte when the impugned orders of attachment of his property were passed.
2. The learned counsel representing the petitioner submits that the mandatory procedure as prescribed under Order XXXVIII Rule 5 and 6 of the Code of Civil Procedure, 1908, has not been followed while passing the impugned orders.
3. This Court has considered the submissions.
4. Because the petitioner was proceeded ex parte, hence, the version of the petitioner has not been considered by the Court.
5. The learned counsel representing the petitioner submits that in the suit, the petitioner is regularly appearing, however, without preponing the date of hearing of the suit, an application for attachment has been entertained while passing the impugned orders.
6. Keeping in view the aforesaid facts, it is considered appropriate to relegate the petitioner before the trial Court at the first instance with liberty to file an application for recall of the impugned orders. If such

application is filed, the same shall be decided in accordance with law within a period of one month from today, positively.

- 7. The respondent shall have the liberty to file an application to recall this order because the order has been passed in his absence.
- 8. Disposed of accordingly.
- 9. All the pending miscellaneous applications, if any, are also disposed of.

July 18<sup>th</sup>, 2023  
Ay

(ANIL KSHETARPAL)  
JUDGE

Whether speaking/reasoned : Yes/No  
Whether reportable : Yes/No