

CR-3962-2023

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

Sr. No.125**CR-3962-2023****Date of Decision: 25.09.2023****RAJINDER KUMAR****....Petitioner****Versus****ARUN AASHRI AND OTHERS****.....Respondents****CORAM: HON'BLE MRS JUSTICE ARCHANA PURI**

Present:- Mr. Ravi Rana, Advocate
for the petitioner.

ARCHANA PURI, J. (Oral)

Challenge in the present revision petition is to the orders dated 12.05.2023 (Annexures P-15 & P-16), passed by the Court below, whereby the *ex parte* proceedings conducted qua respondents No.2 and 3, had been set aside.

It is submitted by learned counsel for the petitioner that during the pendency of the suit filed by the present petitioner, the respondents, who were impleaded as defendants had never made appearance on the date fixed and they had also not filed written statement, as a result whereof, they were proceeded against *ex parte*. However, on frivolous grounds, thereafter, they have filed applications for seeking setting aside of the *ex parte* order and same were allowed vide the impugned orders.

From the paperbook, it is evident that the present petitioner had filed the suit for mandatory injunction against four persons and the case was listed for filing of the written statement on 04.07.2022. However, none had made appearance on behalf of the defendants/respondents No.1 to 4 and as

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such, vide the order dated 04.07.2022, they were proceeded against *ex parte*, and the case was adjourned further for 29.08.2022 for *ex parte* evidence of the petitioner/plaintiff. However, on 29.08.2022 i.e. on the next date itself, an applications (Annexure P-4 and P-7), for setting aside of the *ex parte* proceedings were filed by the respondents/defendants No.2 and 3, as evident from the order dated 29.08.2022 (Annexure P-5).

Perusal of the applications (Annexure P-4 and P-7), reveals about the reason so assigned for not making appearance is with regard to the suit pending at Shahbad Sub Division i.e. CS/165/2021. After considering the reply, so filed, to the application for setting aside of the *ex parte* proceedings, vide the impugned order, the applications were allowed and the defendants/respondents No.2 and 3 were allowed to join the proceedings.

Considering the aforesaid seriatim of adjournments granted, it is evident that it was immediately after having proceeded *ex parte*, on the next date, the application for setting aside of the *ex parte* proceedings was filed, which was allowed, subject to payment of Rs.500/- each.

Considering the same and also considering the reason so assigned, for not making appearance, there is no merit in the present revision.

As such, the same is hereby dismissed.

25.09.2023
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(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No