

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(225)

CR No. 4569 of 2022

Date of Decision : 05.01.2023

Nirmal Singh

...Petitioner

Versus

Harpal Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ishan Gupta, Advocate for the petitioner.

Mr. Sumeet Puri, Advocate for the respondent.

Harsimran Singh Sethi J. (Oral)

In the present revision petition, the prayer of the petitioner is for setting-aside the order dated 17.08.2022 (Annexure P-1) passed by the learned Additional District Judge, Sangrur in CAO No. 146 dated 11.09.2019 titled as ***Harpal Singh Vs. Nirmal Singh***, vide which the appeal filed by the respondent herein against the order dated 30.08.2019 by which, the application filed along with the suit under Order 39 Rule 1 and 2 CPC, was dismissed.

Learned counsel for the petitioner submits that though the case was adjourned to 17.08.2022 but in the cause list on 17.08.2022, the same was shown not to be taken up for arguments. Learned counsel for the petitioner further argues that even otherwise, before the counsel appeared on 17.08.2022, the respondent was already proceeded ex-parte and the case was decided on merits. Learned counsel for the petitioner submits that the petitioner, who was the respondent in the said appeal, appeared in all the

hearings, which is clear from the zimni orders, where the presence of the counsel is recorded, therefore, the Court should not have hurried the process to pass any order proceeding the respondent ex-parte.

Keeping in view the notice of motion issued, Mr. Sumit Puri, Advocate appears on behalf of the respondent and submits that once, the case was listed on 17.08.2022, it was the duty of learned counsel for the petitioner to appear in the said appeal and address arguments. Learned counsel for the respondent conceded that on earlier hearings, the counsel for the petitioner had appeared. Learned counsel for the respondent submits that as the respondent i.e. the appellant before the lower appellate court has good prima-facie in appeal on merits and he is likely to succeed on merits, he has no objection in case, the order dated 17.08.2022 (Annexure P-1) is set-aside and remanded back for fresh decision in CAO No. 146 dated 11.09.2019 on merits but the lower appellate court be time bound so that parties do not suffer any prejudice.

Keeping in view the stand taken by learned counsel for the respondent, the order dated 17.08.2022 is set-aside and the learned Court below is directed to decide the CAO No. 146 dated 11.09.2019 afresh within a period of one month from the receipt of copy of this order by giving due opportunity of hearing to both the parties.

Learned counsel for the parties agreed to appear before the Court below on 23.01.2023 for addressing the arguments on the said appeal.

Disposed of.

January 05, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No