

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

**Civil Revision No. 6483 of 2023(O&M)
Date of Decision: 02.11.2023**

Harcharan Singh

...Petitioner

Versus

Paramjit Singh & Ors.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Aayush Gupta, Advocate
For the petitioner.**

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner/ defendant No.4 for setting aside the impugned orders dated 04.09.2023 and 20.09.2023 passed by the Court of Civil Judge (Jr.Divn.), Ludhiana in civil suit No. CS/46952/2013.

2. The counsel for the petitioner, *inter alia*, contends that vide order dated 04.09.2023 the petitioner was proceeded against *ex-parte* in the aforesaid civil suit as on that date due to some unavoidable circumstances the petitioner failed to appear in the trial Court. When the petitioner came to know about passing of the aforesaid order, he immediately approached the trial Court on 12.09.2023 for setting aside the *ex-parte* proceedings by filing separate application in this regard but the said application was dismissed by the trial Court on 20.09.2023 but the petitioner was allowed to join the proceedings from that very stage subject to cost of Rs.2000/- with limited liberty to the petitioner only to cross-examine *ex-parte* plaintiff witnesses and to advance arguments. The counsel for the petitioner further submits that the petitioner has already filed his written statement and moved an application for setting aside the *ex-parte* proceedings without any delay and

as such the learned trial Court should have allowed the application filed by the petitioner for setting aside the *ex-parte* proceedings.

3. I have considered the submissions made by counsel for the petitioner.

4. As has been stated by the counsel for the petitioner, written statement on behalf of the petitioner has been already filed. The application to set aside *ex-parte* proceedings dated 04.09.2023 was filed on 12.09.2023 i.e. within prescribed period of limitation. In the given circumstances, the learned trial Court should have adopted a liberal approach. The Courts are meant to advance substantial and complete justice and technical rules of procedure should not be given precedence over substantial justice. The Courts are to adjudicate disputes between the parties, on merits. It being so the learned trial Court should have set aside the *ex-parte* order by imposing cost to compensate the plaintiff/ respondents No.1 to 3, in order to subserve the ultimate cause of justice and to avoid multiplicity of litigation between the parties.

5. For the aforesaid reasons the present petition is allowed and the impugned orders are set aside and the application of the petitioner for setting aside the *ex-parte* proceedings is allowed subject to costs of Rs.2000/- already imposed by the trial Court.

6. Keeping in view the nature of order being passed, no notice is required to be issued to the respondents. However, if they feel dis-satisfied with this order, they may move an application to recall the same.

02.11.2023
Jiten

(KARAMJIT SINGH)
JUDGE

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