

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

Sr. No.131

CR-549-2024

Date of Decision: 01.02.2024

NAND LAL

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Daman Jeet Bhoriwal, Advocate for the petitioner.

ARCHANA PURI, J. (Oral)

Challenge in the present revision petition is to the order dated dated 12.09.2023 passed by learned Lower Court, whereby in the civil suit i.e. CS-2053-2019, titled as '*Nand Lal Vs. State of Punjab and another*', an application under Order 9 Rule 7 CPC, filed by the respondents (who are defendants before learned Lower Court), was allowed.

Learned counsel for the petitioner heard.

It is submitted by learned counsel for the petitioner that during the pendency of the suit for declaration, filed at the instance of the petitioner, he had challenged the transfer order dated 22.08.2019. The respondents/defendants had not made appearance and they were proceeded against *ex parte*. In this regard, learned counsel has drawn the attention of Court to the order dated 04.03.2020, copy whereof is Annexure P-2, which reveals about defendant No.1 (who is respondent No.1 herein), having not made appearance, despite service and as such, the said respondent was proceeded against *ex parte*. Similary, vide order dated 06.09.2021, while considering the provision under Order 5 Rule 9 proviso CPC and drawing the presumption of the service, defendant No.2 was also proceeded against

CR-549-2024

ex parte.

Now, it is submitted by learned counsel for the petitioner that the respondents were proceeded against *ex parte*, on 04.03.2020, as well as 06.09.2021, but however, the application under Order 9 Rule 7 CPC, had been filed in the year 2022.

On query by the Court, it has been submitted by learned counsel that the case is at the stage of recording of the plaintiff evidence and till date, no witness has been recorded.

No doubt, there is slackness on the part of the respondents, who are the State authorities, but however, it is always required that the dispute between the parties should be decided on merits, more particularly when one of the party to the lis is State. Considering the same, this Court finds no illegality or irregularity in the impugned order, passed by learned Lower Court, which warrants intervention of this Court in revisional jurisdiction.

Hence, the instant revision petition is hereby dismissed.

01.02.2024

Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No