

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

**CM-7067-CII-2024 in/and
CR No.849 of 2024(O&M)
DATE OF DECISION: 07.05.2024**

Pammi @ Baljinder Kaur

.....Petitioner

VERSUS

Gurmail Singh and others

.....Respondents

CORAM HON'BLE MR. JUSTICE GURBIR SINGH

Present Mr. Tushar Sharma, Advocate,
for applicants-respondents no.1 to 3.

Mr.Sandeep Siwach and Mr. Virat Rana, Advocates,
for the non applicant-petitioner.

GURBIR SINGH, J**CM-7067-CII-2024**

This is an application seeking vacation of stay granted by this Court vide order dated 13.02.2024.

Since, with the consent of both the counsel for the parties, the main case is being taken up on board today itself and is being decided, therefore, the present application is disposed off as having not pressed.

CR No. 849 of 2024(O&M)

With the consent of both the counsel for the parties, the main case is taken up on board today itself.

1. Challenge in this revision petition is to the order dated 23.01.2024 (Annexure P-9), whereby application moved by the petitioner for setting aside the exparte order dated 08.01.2024 has been dismissed but petitioner has been allowed to join the proceedings.

2. Parties are being addressed by their status in the original plaint.



3. Learned counsel for the petitioner contends that on 15.09.2023, the plaintiff Sukhwinder Kaur openly declared in the village that she alongwith her children had filed a Court case at Barnala against Jagsir Singh including the petitioner regarding the land situated at Rureke Kalan and soon she would get a Court order in her favour, then the petitioner came to the Court and engaged her counsel and came to know about the pendency of the case. Exparte Order dated 13.02.2017 was passed on account of her non appearance. She never received summons. Plaintiff managed to get false report on the process and got her proceeded against exparte. Petitioner moved an application for setting aside the exparte proceedings vide order dated 06.10.2023. The same was allowed subject to payment of costs of Rs.25,000/- and petitioner was allowed to join the proceedings. Petitioner joined the proceedings, paid the costs and written statement was filed. One PW was fully examined and case was adjourned for remaining evidence of the petitioner but vide order dated 08.01.2024, the petitioner was proceeded against exparte. Non appearance of the petitioner was neither intentional nor wilful. Petitioner could not appear due to wrong noting of date. Moreover, none of the prosecution witnesses was examined thereafter. The petitioner neither receive any phone call from the Reader of the Court nor received any intimation regarding fixing of the case.

3. Learned counsel for the respondents has argued that petitioner intentionally failed to appear before the trial Court, who is justified in dismissing the application.

4. I have heard the submissions of the learned counsel for the parties.

5. It is well settled law that Courts are meant to impart justice to the parties and parties should also be given full opportunity to prove their case. It is a specific case of the petitioner/defendant no.3 that due to wrong noting of the date. The petitioner could not appear in the Court and the petitioner/defendant no.3 was not to gain anything but to delay the proceedings of the case. The petitioner, on coming to



know that she was proceeded against exparte, immediately moved the application for setting aside the same. Petitioner must be given an opportunity to defend the case.

6. Keeping in view the above, the instant revision petition is allowed and the impugned order dated 23.01.2024 (Annexure P-9) whereby application moved by the petitioner for setting aside the exparte order dated 08.01.2024 has been dismissed but petitioner has been allowed to join the proceedings, is hereby set aside. Parties through their counsel are directed to appear before the learned trial Court on **13.05.2024.**

7. Since the case is old, so none of the parties would seek adjournment on any ground and Court shall ensure that no unnecessary adjournment shall be granted in the case and case be disposed off as expeditiously as possible.

8. Pending applications, if any, shall stand disposed of along with this judgment.

07.05.2024

mamta

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No

(GURBIR SINGH)

JUDGE