

**CR No.2055 of 2024****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.****Sr. No.120****Case No. : CR No.2055 of 2024****Date of Decision : May 24, 2024**

Ramesh Kumar Petitioner

vs.

Rajesh Kumar Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. S. S. Verma, Advocate
for the petitioner.

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GURBIR SINGH, J. :

1. Challenge in the present revision petition is to the order dated 22.12.2023 (Annexure P-1), passed by learned Additional Civil Judge (Senior Division), Sohna (hereinafter referred to as – Trial Court), whereby application moved by the petitioner for setting aside the ex-parte order dated 06.01.2018 has been dismissed.

2. The brief facts, necessary for disposal of instant revision petition, are that plaintiff/respondent no.1 filed a suit for declaration with the consequential relief of permanent injunction against his wife Savita Kumari as defendant no.1 and the petitioner, who is father of Savita Kumari as defendant no.2. In the said suit, vide order dated 06.01.2018, the petitioner has been proceeded against ex-parte. Thereafter, application for temporary injunction was decided in favour of the plaintiff/respondent no.1. Savita Kumari filed appeal against the said order which is still pending. The



petitioner filed an application for setting aside ex-parte order dated 06.01.2018, which was dismissed.

3. Learned counsel for the petitioner has argued that the petitioner was not duly served. He is an illiterate person. He is having valuable rights in the suit property. The petitioner came to know about the ex-parte order from his counsel and was directed to appear in the Court on 26.07.2023. He appeared in the Court on 26.07.2023 but on that day, the work was suspended by the lawyers and the matter was adjourned to 25.09.20923. However, there is delay of about six years for getting set aside the ex-parte order dated 06.01.2018 but the said delay is not intentional.

4. I have heard the submissions of learned counsel for the petitioner and perused the case file.

5. The specific case of the petitioner is that he came to know about the passing of ex-parte order against him from his counsel when he was asked to appear in the Court on 26.07.2023. The Trial Court has held that the petitioner had been appearing in the case bearing No.CMA-1264-2018 since the year 2018 against the injunction order arising out of the said case. The petitioner was having knowledge of pendency of the case but the application was moved on 26.10.2023 i.e. around five years after the passing of ex-parte order dated 06.01.2018. There is no explanation on the part of the petitioner, what prevented him from appearing in the Trial Court, when he was already appearing in appeal filed against the order passed in the same suit. Moreover, his daughter is contesting the suit.

6. In view of the above, I am of the opinion that the petitioner has

come to the Court on wrong averments and the application has been filed after much delay in spite of having knowledge of the passing of ex-parte order. So, the learned Trial Court has rightly dismissed the application moved by the petitioner. No ground is made out to interfere in the order passed by learned Trial Court.

7. The present revision petition is found to be without any merit and the same accordingly dismissed in limine.
8. Pending applications, if any, shall stand disposed of along with this judgment.

May 24, 2024
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.