



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

CR-3490-2024

Date of Decision: 31.05.2024

MILLENIUM MARINE & LOGISTICS AND ORS

.....PETITIONERS

VS

SWARUP BEEMAL BOSE & ANR

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. P.K.Chugh, Advocate for the petitioners.
(Through video conferencing)

Mr. Sanjeev Manrai, Senior Advocate with
Mr. Abhishek, Advocate and
Mr. Ishaan Vashishth, Advocate for the respondents.

GURBIR SINGH, J. (ORAL)

1. Challenge in this revision petition is to the order dated 30.03.2024 (Annexure P-8) passed by learned Civil Judge (Senior Division) whereby the application filed by the petitioners/defendants for setting aside the ex-parte order dated 10.08.2023 (Annexure P-3) has been dismissed.
2. Brief facts that are necessary for the disposal of this petition are that respondents/plaintiffs filed a suit for permanent, mandatory and prohibitory injunction along with punitive damages to the tune of Rs.50,00,000/-. Notice of the suit was issued to the petitioners for 04.08.2023, on which date, notice sent to defendants received unserved with report that premises was locked. Fresh

notices were issued for 07.08.2023 through all modes. On 07.08.2023, matter was adjourned to 10.08.2023 as the Presiding Judge was on leave. On 10.08.2023, matter was taken up and as per report on summons, the premise was found locked and notice was pasted but none appeared on behalf of the defendants and defendants were proceeded ex-parte and the matter was adjourned for 18.10.2023. On 18.10.2023, defendants appeared through their counsel and filed an application under Order 9 Rule 7 of CPC for setting aside ex-parte order along with an application for condonation of delay in filing the application. The respondents/plaintiffs filed reply to the applications and vide order dated 30.03.2024, application was dismissed on the ground that summons were issued at the correct address but defendants did not show a good cause for non-appearance.

3. Learned counsel for the petitioners submits that the summons were never received by the petitioners in person. Infact, summons were pasted on the address given by the respondents but the present registered address of the petitioners is different from the address given by the respondents. He further submits that as per report on summons, premises was found locked as the petitioners were no more residing on that address. So the summons were never served to the petitioners. He further submits that case is at the initial stage and no evidence is recorded, he would be satisfied if one opportunity is granted to the petitioners to file written statement.

4. Notice of motion.

5. Mr. Sanjeev Manrai, Senior Advocate who is assisted by Mr. Abhishek, Advocate and Mr. Ishaan Vashishth, Advocate accepts notice on behalf of the respondents. He submits that petitioners are deliberately delaying

the disposal of the case. He further submits that pursuant to service of summons, the defendants were rightly proceeded exparte. He further submits that the address at which summons were issued is the registered address of the company available with the plaintiffs from the ROC data.

6. I have heard the submissions of learned counsels for the parties.
7. On asking, learned counsel for the respondents submits if order is to be set aside then heavy costs be imposed upon petitioners. Keeping in view that party must be given full opportunity to contest the case on merits and none should be non-suited on mere technicalities, case is at initial stage, petitioners have every right to join the proceedings and other party can be compensated with costs so, in the interest of justice, orders dated 30.03.2024 and 10.08.2023 passed by learned Civil Judge (Senior Division) Gurugram are hereby set aside and this petition is disposed of with a direction to the trial Court to give one opportunity to the petitioners to file written statement on the next date but subject to payment of costs of Rs.40,000/-, out of which, Rs.30,000/- shall be paid to the respondents-plaintiffs and Rs.10,000/- be deposited with the concerned District Legal Services Authority. The petitioners shall file written statement on the date fixed before the trial Court and no further opportunity shall be given for this purpose. In case of default, this order shall automatically stand vacated.
8. Present revision petition stands disposed of accordingly.
9. If the respondents are not satisfied with this order, they may move an application within 30 days to recall the same.

(GURBIR SINGH)
JUDGE

31.05.2024
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