



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

CR-3739-2022 (O&M)

Date of decision: 21.05.2024

Samdarsi Singh

....Petitioner

Versus

Jaswinder Pal Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. J.S.Jaidka and
Mr. Abhishek Khullar, Advocate for the petitioner

Mr.Munish Gupta, Advocate for the respondents

ANIL KSHETARPAL, J (Oral)

1. In this revision petition, the petitioner challenges the correctness of the order dated 16.08.2022 passed by the trial court, while dismissing his application for setting aside ex-parte proceedings. At the outset, it is important to note that the petitioner being defendant no.2 is entitled to join the proceedings in the pending suit. However, the question is as to whether the petitioner is entitled to be relegated to the same position on which he was proceeded against ex-parte.

2. The suit was filed on 22.06.2021. The defendants are father and his two sons. They are residing in the same house. All the three were served with notice in the suit for 02.07.2021. Defendant no.1 entered appearance, however, as both the sons despite the receipt of the notice did not enter appearance, the court adjourned the case awaiting appearance to 22.07.2021 and thereafter, on 26.07.2021 they were proceeded against ex-parte. An application was filed by the petitioner,



who is defendant no.2 for setting aside ex-parte order, which, as already noticed, has been dismissed.

3. Learned counsel representing the petitioner contends that on 22.07.2021 the Presiding Judge was on leave and the case was taken up on 26.07.2021 and he was proceeded against ex-parte, although there was no notice to the petitioner for that day.

4. This Court has considered the submissions made by the learned counsel representing the parties.

5. It may be noted here that the learned counsel representing the petitioner does not dispute the fact that defendant no.1, the father and his two sons including the petitioner are residing in the same house. It is also evident that defendant no.1 has already filed the written statement contesting the case. There is no conflict of interest between father and both the sons. Hence, this Court does not find it appropriate to interfere with the impugned order. However, as already noticed, the petitioner shall be entitled to join the proceedings from the current stage.

6. Disposed of.

7. All the pending miscellaneous applications, if any, are also disposed of.

21.05.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE