



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-5130-2024

Date of Decision: 06.09.2024

SANTOSH KUMAR

...PETITIONER

Vs.

SAVINDER KAUR AND ANOTHER

... RESPONDENTS

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Hem Raj Bhardwaj, Advocate, for the petitioner.

DEEPAK GUPTA, J.

Petitioner is the plaintiff in Civil Suit No.292 of 2022 [CNR No.PBSGB0-000373-2022] titled 'Santosh Kumar Vs. Savinder Kaur and another', pending before Id. Civil Judge (Jr. Division), Dhuri. He is aggrieved by the order dated 05.07.2024 of the trial Court, whereby *ex parte* proceedings against the respondents (*defendants No.1 & 2 before the trial Court*), were directed to be set aside subject to cost.

2. Heard learned counsel for the petitioner. Paper-book perused.
3. It is revealed that defendants-respondents were proceeded against *ex parte* on 26.08.2022. Case was at the stage of *ex parte* evidence of the plaintiff, when an application for setting aside the *ex-parte* proceedings was moved by the defendants and the same was allowed under Order IX Rule 7 CPC by way of the impugned order, subject to payment of cost of ₹2000/-.
4. Order IX Rule 7 CPC reads as under: -

"Procedure where defendant appears on day of adjourned haring and assigns good cause for previous non-appearance – Where the Court has adjourned the hearing of the suit ex parte and the defendant, at or before

such hearing appears and assigns good cause for his previous non-appearance, he may, upon such terms as the Court directs as to costs or otherwise, be heard in answer to the suit as if he had appeared on the day fixed for his appearance.”

5. It is clear from the aforesaid provision that when after being proceeded *ex parte*, defendant approaches the Court and assign good cause for non-appearance, the Court may upon such terms as the Court may direct as to costs or otherwise, hear the defendant and answer the suit as if he had appeared on the day fixed for appearance.
6. The petitioner-plaintiff has been duly compensated by the trial Court. The case is still at the stage of *ex parte* evidence. No prejudice will be caused to the case of the petitioner - plaintiff in case defendants-respondents are permitted to contest the suit on merits.
7. No merits. Dismissed.

06.09.2024
Vivek

(DEEPAK GUPTA)
JUDGE

Whether speaking/reasoned? Yes

Whether reportable? No