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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CR-6562-2024

Date of decision : 11.11.2024

Sunil

... Petitioner

Versus

Ranbir Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Gautam Kaile, Advocate and
Mr.Ashwani Kumar Antil, Advocate
for the petitioner.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 09.10.2024 (Annexure P-8) vide which the application moved by the petitioner for setting aside the ex-parte order dated 03.08.2018 (Annexure P-1) has been dismissed.

2. Learned counsel for the petitioner has submitted that the petitioner was proceeded against ex-parte on 03.08.2018 and thereafter had moved an application on 16.03.2022 for setting aside the ex-parte order dated 03.08.2018 and has submitted that the said application with respect to the relief of setting aside the ex-parte order dated 03.08.2018 has been dismissed, although the petitioner has been permitted to join the proceedings. It is stated that in case ex-parte order dated 03.08.2018 is not

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set aside, then irreparable loss would be caused to the petitioner, inasmuch as the petitioner has not even filed written statement. It is prayed that the petitioner be granted one opportunity to file written statement. It is submitted that since the plaintiff has already examined witnesses, thus, an opportunity be granted to cross-examine the witnesses of the plaintiff and the proceedings be stayed till the present revision petition is not decided as the case is now fixed before the trial Court for 13.11.2024 for final arguments.

3. This Court has heard the learned counsel for the petitioner and has perused the paper book.

4. It is not disputed that the petitioner had appeared before the trial Court in the suit filed by the respondent for declaration and possession on 14.02.2018 and did not file written statement despite availing three opportunities till 03.08.2018 and thereafter the case was fixed for plaintiff's evidence on 17.10.2018, 30.01.2019, 11.04.2019, 09.07.2019, 13.11.2019 and 27.04.2020. It is also not in dispute that the application for setting aside the ex-parte order dated 03.08.2018 was filed on 16.03.2022 after a delay of more than 3 years and 7 months and there were several dates in between the abovesaid two dates. The learned trial Court had with respect to setting aside the ex-parte order observed that in case, the petitioner wanted to relegate back to the position in which he was when he was proceeded against ex-parte, then, he should have moved the application on the next date of hearing and was also required to assign good cause for his previous non-appearance, then, he may upon such terms could have been heard in the



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suit as if he had appeared on the date fixed earlier. It was observed that since no application was filed on the next date and the petitioner continued to not appear before the trial Court and also offered no good cause for his previous non-appearance, thus, he should not be relegated back to the original position on the said aspect. Reliance was placed by the trial Court on the judgment of *Ram Lal Kathuria vs. Shiv Kumar Sharma* reported as *1999 VI AD (Delhi) 217*. The trial Court had however permitted the petitioner to join the proceedings from the date of passing of the order. The said order is in accordance with law and also has been passed keeping in view the provision of Order 9 Rule 7 CPC. Admittedly, the application had been filed after a delay of more than 3 years and 7 months under Order 9 Rule 7 CPC and in between several dates had been given and even no good cause for non-appearance on the said dates had been mentioned, thus, the impugned order is legal and deserves to be upheld and the present revision petition being meritless, deserves to be dismissed and is, accordingly dismissed.

(VIKAS BAHL)
JUDGE

November 11, 2024.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No