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

CR-7860-2023 (O&M)

Date of Decision : 12.11.2024

Sanjana Kumari

... Petitioner(s)

Versus

Harbhajan Singh

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Chetan Bansal, Advocate for the petitioner.

Mr. Anupam Bhardwaj, Advocate for the respondent.

ALKA SARIN, J. (Oral)

1. The present revision petition has been filed challenging the impugned order dated 12.12.2023 whereby the application filed by the defendant-petitioner herein under Order 9 Rule 7 of the Code of Civil Procedure, 1908 for setting aside the *ex parte* order dated 24.07.2023 has been dismissed.

2. Learned counsel for the defendant-petitioner would contend that in case the *ex parte* order dated 24.07.2023 is not set aside, irreparable loss would be caused to the defendant-petitioner.

3. *Per contra*, the learned counsel for the plaintiff-respondent would contend that on two earlier occasions the defendant-petitioner had filed applications for setting aside the *ex parte* proceedings and she failed to appear and, hence, the same were dismissed. It is further the contention of the learned counsel that now, for the third time, the present application has been filed for setting aside the *ex parte* proceedings and yet again the defendant-petitioner

absented and the said application has been dismissed vide the impugned order dated 12.12.2023.

4. I have heard the learned counsel for the parties.

5. In the present case the suit was filed by the plaintiff-respondent for specific performance and when the matter was fixed for consideration on the stay application the defendant-petitioner absented and she was proceeded against *ex parte* on 05.08.2021. On 10.12.2021, when one of the witnesses of the plaintiff-respondent had already been examined, the defendant-petitioner moved an application under Order 9 Rule 7 CPC for setting aside the *ex parte* proceedings. On 02.03.2022 when the said application was pending consideration, the defendant-petitioner again failed to appear and hence the application was dismissed. After a period of 09 months, a second application was filed on 13.12.2022 for setting aside the *ex parte* proceedings, however, even then the defendant-petitioner did not appear and the application was rendered infructuous on 24.07.2023. Now for the third time the present application has been filed for setting aside the *ex parte* order dated 24.07.2023. The Trial Court vide the impugned order dated 12.12.2023 dismissed the application keeping in view the conduct of the defendant-petitioner, however, she was permitted to join the proceedings. Aggrieved by the same, the present revision petition has been filed.

6. In the present case the conduct of the defendant-petitioner appears to be only to delay the proceedings. However, in order to do complete justice between the parties, the impugned order dated 12.12.2023 is set aside. As a corollary, the *ex parte* order dated 24.07.2023 is also set aside. The Trial Court shall now decide the application filed by the defendant-petitioner on

13.12.2022 under Order 9 Rule 7 CPC on merits. The present civil revision petition is allowed subject to payment of costs of Rs.30,000/- to be paid to the plaintiff-respondent, which shall be a condition precedent. In case the costs are not paid/deposited by the defendant-petitioner, the present civil revision petition shall be deemed to having been dismissed. The Trial Court is requested to expedite the hearing of the trial.

6. It is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

7. Disposed off accordingly. Pending applications, if any, also stand disposed off.

12.11.2024
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO