



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.29 of 2025 (O&M)

Date of Order:09.01.2025

Balwan Singh

.Petitioner

Versus

Haryana Wakf Board, Masjid Shishewali, Rohtak

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Abhimanu Jangra, Advocate
for the petitioner.

ANIL KSHETARPAL, JUDGE (Oral)

1. The petitioner herein is the defendant in a suit filed on 08.12.2017, by the Haryana Wakf Board for possession and recovery of mesne profits. After repeated efforts, the petitioner entered appearance and sought an adjournment for filing reply. Subsequently, on account of absence of the defendant on 08.11.2024, the Court ordered ex-parte proceeding against the petitioner. During all this while, he did not file a written statement. He filed an application for setting aside the ex-parte order which has been dismissed by the trial court.

2. The learned counsel representing the petitioner contends that the absence of petitioner on 08.11.2024, was not intentional and he should have been permitted to file the written statement and contest the suit. He submits that there is no intention on the part of the defendant to delay the suit. He further contends that for a period of nearly five years, the plaintiff failed to submit the correct address of the petitioner, hence the delay cannot be attributed to him.



3. This court has considered the submissions of the learned counsel representing the petitioner.

4. Though, the conduct of the petitioner is not free from blemishes, however, the application for setting aside ex-parte proceedings was filed by him promptly on 02.12.2024, i.e. within a period of 30 days from the date of order of ex-parte proceedings. In such circumstances, the Court should have permitted the petitioner to contest the suit by imposing certain conditions and costs. In any case, the petitioner was entitled to participate in the proceedings as the ex-parte proceedings ordered for a particular date does not debar the defendant from participating the proceedings subsequently. The setting aside order entails him relegation to the same situation when he was proceeded against ex-parte, however, he cannot be de-barred from participating in the proceedings. During all this while, no further proceedings have taken place.

5. The learned counsel representing the petitioner has informed the court that the next date of hearing is 24.01.2025 for final arguments as the plaintiff's ex-parte evidence has been recorded on 03.01.2025. He submits that the written statement shall be filed on or before the next date of hearing with copy in advance to the learned counsel representing the plaintiff.

6. Keeping in view the aforesaid facts, the impugned order is modified without issuing notice to the respondent (plaintiff). If the petitioner files the written statement on or before the next date of hearing i.e. 24.01.2025, with copy in advance to the learned counsel representing the plaintiff and pays costs of Rs.10,000/-, the Court will set aside the ex-parte proceedings and proceed with the trial. However, if the petitioner fails to

comply with the aforesaid directions, the revision petition shall be deemed to have been dismissed. The respondent shall have the liberty to file an application for modification because this order has been passed without issuing the notice.

- 7. With these observations, the revision petition is disposed of.
- 8. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

January 09, 2025
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No