

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

264

CR-7228-2024 (O&M)

Date of Decision : 14.02.2025

RANBIR SINGH

.... Petitioner

VERSUS

RANJIT SINGH

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. D.S. Sandhu, Advocate for the petitioner.

Mr. Saurabh Kapoor, Advocate and
Mr. Himanshu Singh, Advocate for the respondent.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed by the defendant-petitioner under Article 227 of the Constitution of India challenging the order dated 31.01.2024 whereby the defendant-petitioner was proceeded against *ex parte* as well as the order dated 24.10.2024 whereby the application for setting aside the *ex parte* order was also dismissed.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent herein filed a suit for declaration to the effect that he is owner in possession of the property as fully described in the plaint. The defendant-petitioner herein put in appearance on 04.12.2019 and filed his written statement on 07.09.2021. On 13.04.2023 the defendant-petitioner was proceeded against *ex parte*. After the plaintiff-respondent had examined six witnesses, an application was filed for setting aside the *ex parte* order on 06.12.2023 and the said application was allowed vide the order dated 05.01.2024 subject to payment of costs. Thereafter the defendant-petitioner again failed to appear and even the costs were not deposited and, hence, was

proceeded against *ex parte* on 31.01.2024. Thereafter, an application was filed for setting aside the *ex parte* order dated 31.01.2024 and the said application was dismissed vide the impugned order dated 24.10.2024. Hence, the present revision petition.

3. Learned counsel for the defendant-petitioner would contend that the defendant-petitioner could not appear due to the illness of his mother and that he be given one more opportunity to join the proceedings.

4. *Per contra*, learned counsel for the plaintiff-respondent would contend that the first application, after the defendant-petitioner was proceeded against *ex parte*, was filed after a period of 7 months. The said application was allowed vide order dated 05.01.2024 subject to ₹2,700 (rupees two thousand seven hundred) as costs and the case was adjourned for cross-examination of the plaintiff-respondent's witnesses to 31.01.2024. The defendant-petitioner again failed to appear as also to pay the costs on the adjourned date and was again proceeded against *ex parte*.

5. Heard.

6. In the present case the defendant-petitioner, after filing his written statement on 07.09.2021, failed to appear before the Trial Court and was proceeded against *ex parte* vide order dated 13.04.2023. After the plaintiff-respondent had examined six witnesses, an application was filed for setting aside the *ex parte* order on 06.12.2023. Vide order dated 05.01.2024 the said application was allowed subject to payment of costs. When the matter was listed for the cross-examination of the plaintiff-respondent's witnesses, yet again the defendant-petitioner failed to appear and was accordingly again

proceeded against *ex parte* on 31.01.2024. The present application was filed on 06.05.2024 averring therein that the defendant-petitioner remained busy with the treatment of his mother. However, not a single document was brought on record to show that the mother of the defendant-petitioner was seriously ill and was undergoing treatment. Even today learned counsel for the defendant-petitioner is unable to show any document regarding the illness of the mother of the defendant-petitioner. The defendant-petitioner by repeatedly absenting himself from the Court is not only delaying the proceedings but is also wasting precious time of the Court. Previously also the Court had permitted the defendant-petitioner to join the proceedings as also to cross-examine the witnesses who had already been examined by the plaintiff-respondent yet again the defendant-petitioner failed to appear and also to deposit the costs. There is absolutely no cogent explanation forthcoming for the conduct of the defendant-petitioner. However, keeping in view the totality of the circumstances, one last opportunity is granted to the defendant-petitioner to join the proceedings.

7. In view of the above, the impugned order dated 31.01.2024 is set aside subject to payment of ₹50,000 (rupees fifty thousand) as costs to be paid to the plaintiff-respondent. The payment of costs shall be a condition precedent. In case the defendant-petitioner deposits the costs, he shall be granted two effective opportunities to cross-examine the witnesses of the plaintiff-respondent as also to lead his own evidence. The Trial Court is requested not to grant any unnecessary adjournment to either of the parties.

8. The present revision petition stands disposed off in the above terms. Pending applications, if any, also stand disposed off.

14.02.2025
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No