

476-CS-2022-Beant Ram VS Inderjeet Sahni

CNR No.PBKPA0000631-2022

Present: Sh. Ram Swarup Khera, Adv, counsel for plaintiff.
Sh. R.K. Kailey, Adv, counsel for
applicant/defendant.

**(Application on behalf of defendant no.1 Inderjeet Sahni
for setting aside the exparte order dated 30.11.2022)**

Order:

1. This order of mine shall dispose of an application for setting aside the exparte order dated 30.11.2022 against defendant no. 1.

2. It is averred in the application that applicant/defendant received summons issued by the Court but he lost the same and forgotten about the next date of hearing as well he also forgotten about the above said case pending against him due to old age. Hence, the present application and prayer for allowing the same has been made.

3. The notice of the application was given to the opposite party who has filed reply. It is averred in the reply that applicant/defendant intentionally did not appeared after receiving the summons in the present case. All the other averments were denied and prayer for dismissal of the application has been made.

4. I have heard both the counsel and gone through record. This court is of the view that the case is at its initial stage and no prejudice would be caused to plaintiff, if the application in hand is allowed. Further, the Hon'ble Punjab and Haryana High Court in the case titled as **Kishan Kumar vs Kavita 2013 (4) CCC 390** has held that rules of procedure are hand made of justice and it should not be used as technical ground for defeating the end of justice. Further it is settled principal of law that court should make every endeavor so as to advance substantial justice when no negligence or in action can be imputed to a party. As such, I deem it proper to hear all the parties for proper adjudication of the suit. The delay, if any,

can be compensated by way of cost. Accordingly, the application in hand is ***allowed***, exparte order dated 30.11.2022 passed against defendant no. 1 is set aside, subject to cost of ₹500/- to be paid by the applicant/defendant no.1 to the plaintiff. Now to come up on 23.08.2023 for filing written statement by applicant/defendant no.1. It is also made clear that only one opportunity will be granted to the applicant/defendant no.1 for filing written-statement failing which the Court would be bound to proceed further as per law.

Pronounced in Open Court:

Dated:24.07.2023

Lavneet

(Arun Shori)

CJJD/Phagwara

(UID No. PB 0462)