

CNR No. PBPO020015102022

(CS/1067/2022)

Narinder Singh Vs. Madan Singh

Present: Sh. Ajay Dadhwal Advocate for the plaintiff.

Sh. R.S. Thakur Advocate for defendants No. 1, 2, 4, 7, 20, 23, 24, 25, 26, 27, 30, 32, 33 and 35. (Defence Struck off vide order date 08.11.2023).

Suit qua defendants no. 3, 9, 10, 11, 14, 22, 28 and 29 dismissed u/o 9 Rule 2 CPC vide order dated 8.11.2023.

Sh. N.S. Thakur Advocate for defendants No. 18, 19 and 31 (Defence Struck off vide order date 08.11.2023).

Defendant No. 5 and 12 reported to be died.

Defendants No. 6, 8 and 13 *ex parte* vide order dated 15.03.2023.

Defendants No. 15, 16, 21 *ex parte* vide order dated 11.08.2023.

Sh. Ravinder Singh Thakur for the applicant/defendant No. 17.

ORDER:-

1. This order of mine shall dispose of an application filed by the applicant/defendant No. 17 for setting aside *ex parte* order dated 11.08.2023 whereby he was proceeded against *ex parte*.

2. Briefly the facts as averred by the applicant/defendant are that he has received summons and the counsel for the applicant on 08.11.2023 but the counsel for the defendant/applicant was informed by the Court that the applicant has been proceeded against *ex parte* vide order dated 11.08.2023. The absence of the applicant/defendant was not intentional but the same was due to above said reason and as such *ex parte* order dated 11.08.2023 is liable to be set aside. The valuable rights of the applicant are involved in this case and as such the *ex parte* order may kindly be set aside in the ends of justice. In case the *ex parte* order is not set aside the applicant/defendant no. 17 will suffer irreparable loss and injury and prayed that the *ex parte* order dated 11.08.2023 may kindly be set aside.

3. Notice of the application was given to plaintiff-respondent, who filed reply and denied the averments made by the applicant/defendant no.17 and prayed that application be dismissed.

4. I have heard the submissions made by learned counsel for the parties and have perused the material on the record carefully.

5. Perusal of the case file shows that defendant no.17 was served for 11.08.2023 but he did not appear and thus he was proceeded against *exparte* vide order dated 11.08.2023 passed by learned Predecessor of this Court. Now, this application has been filed by the applicant/defendant no.17 on 01.05.2024 for setting-aside *exparte* proceedings against him. Applicant has averred that applicant/defendant no.17 has received summons and his counsel filed power of attorney on behalf of the applicant on 08.11.2023 but his counsel was informed by the Court that he has been proceeded against *exparte* vide order dated 11.08.2023. His absence was not intentional but the same was due to above said reason and as such *exparte* order dated 11.08.2023 is liable to be set aside. No prejudice is going to be caused to the plaintiff, if defendant no.17 is allowed to contest the case, rather it will help to this Court to reach to proper and just conclusion. The case is at initial stage. More so, it is always in the interest of justice that matter be decided after providing due opportunity to both the parties.

6. Thus, in view of discussion made herein above, application filed by the applicant/defendant no.17 for setting aside *exparte* proceedings against him, stands allowed, subject to payment of costs of Rs.500/- to be

paid to plaintiff. Application stands disposed of accordingly.

Pronounced in open court.
Dated: 22.07.2024

(Balbir Singh Stenographer)

(Ravneet Kaur Bedi), PCS
Civil Judge (Jr. Division)
(UID NO. PB0640
Pathankot.

Narinder Singh Vs. Madan Singh and ors.

CS/1067/2022

Present: Sh. Ajay Dadhwal Advocate for the plaintiff.

Sh. R.S. Thakur Advocate for defendants No. 1, 2, 4, 7, 20, 23, 24, 25, 26, 27, 30, 32, 33 and 35. (Defence Struck off vide order date 08.11.2023).

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Sh. N.S. Thakur Advocate for defendants No.18, 19 and 31 (Defence Struck off vide order date 08.11.2023).

Defendant No. 5 and 12 reported to be died.

Defendants No.6, 8 and 13 exparte vide order dated 15.03.2023.

Defendants No. 15, 16, 21 exparte vide order dated 11.08.2023.

Sh. Ravinder Singh Thakur for the applicant/defendant No.17.

Reply to application under order 9 Rule 7 CPC for setting aside the order dated 11.08.2023 is filed. Copy supplied. Heard. Vide my separate order of even date, the application filed by the applicant/defendant no.17 has been allowed, as per detailed averments made therein. Now, to come upon 28.10.2024 for payment of costs and for filing written statement and reply to the stay application by defendant No.17.

Perusal of the file shows that the name of defendant no.5 and defendant no.34 are same. None has come present on behalf of the defendant no.34. The plaintiff is directed to confirm as to whether defendants no.5 and 34 are the same person.

Pronounced in open court.

Dated: 22.07.2024

(Balbir Singh Stenographer)

(Ravneet Kaur Bedi), PCS

Civil Judge (Jr. Division)

Pathankot. (UID NO. PB0640)