

CS/1141/2022

CNR No. PBBTA00014252022

Sukhraj Singh etc. Vs. Sukhwinder Singh etc.

Present: Mr. KS Sidhu, Advocate for the respondent/plaintiff.
Mr. Jaswant Singh Mirzeana Advocate for the defendants
No.3 to 6 and 8.
Sh. J.S. Sran Advocate for defendant No.7.
Defendants No.1 and 2 ex parte.

1. Today Sh. K.S. Sidhu Advocate Counsel for plaintiff has appeared and suffered the statement to the effect that he withdraws his present applications under Order 6 Rule 17 and under Order 1 Rule 10 of CPC of dated 12.01.2023. In view of the statement of Counsel for plaintiff, present applications stands dismissed as withdrawn.

2. This order of mine shall dispose of an application for setting aside the ex parte order dated 12.01.2023 filed on behalf of applicant/defendant No.7. As per the averments of the application, neither the defendant No.7/applicant received any summons nor she refused to take any summons from Ld.Court. The defendant No.7/applicant never served with summons of this Court as per provisions of CPC. No munadi took place in the Village by beating of drum in the Village. The defendant No.7/applicant never served through munadi or any other manner. Defendant No.7/applicant wants to contest the suit by filing written statement and adducing his evidence before this Court. It is prayed that ex parte proceedings dated

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12.01.2023 against him be set aside.

3. Reply to the said application has not been filed by the plaintiff/respondent despite opportunity. However, the same is orally contested on the ground that application is not maintainable and present application has been filed just to delay the proceedings. Lastly, a prayer for dismissal of the application has been made.

4. I have considered the contradictory version of the contesting parties and have perused the case file very carefully.

5. From the perusal of the case file, it transpires that at the time when the applicant/respondent was proceeded against ex parte on 12.01.2023, the suit was fixed for appearance of defendant but the defendant as per record did not appear and the present application is filed by the defendant on the ground that defendant/applicant never served with summons of this Court as per provisions of CPC and no munadi took place in the Village by beating of drum in the Village. The defendant No.7/applicant never served through munadi or any other manner. The reasons mentioned for non appearance are not convincing and against the record. However, it is settled of law that no one should be condemned unheard and this is to be seen that matter should be decided on merits by giving due opportunity to the parties and not on the basis of minor technical issues. Even otherwise, there is no limitation for setting aside the ex-parte proceedings. Therefore, if the present application is allowed then no prejudice as such would be cause to the plaintiff side. As such, the present application is hereby **allowed** and the order dated **12.01.2023** is set aside qua applicant/defendant

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No.7, subject to cost of ₹1000/- to be paid to plaintiff. Now to come on 15.10.2024 for filing written statement and for payment of cost by said defendant No.7.

Pronounced
23.07.2024
Pratibha, St.

(Sudhir Kumar), PCS,
Addl. Civil Judge (Sr.Divn.),
Talwandi Sabo.
(UID No.PB0378)

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