

Paramjeet Singh Vs. Chandan Kumar

Civil Suit No. 50 of 2023

21.05.2024 Present: Mr. Tara Singh Chauhan, Advocate, for the plaintiff.

Mr. Neeraj Gupta, Senior Advocate, with Mr. Pranjal Munjal, Advocate, for defendant No.1.

Mr. V.S. Rathour, Advocate, for defendant No.2.

OMP No. 336 of 2024

An application under Order 9 Rule 7 read with Section 151 CPC has been filed for setting aside the ex-parte order dated 28.12.2023, vide which it was observed that summons issued to defendant No.1 was received after due service but no one had put in appearance on behalf of defendant No.1. Consequently, defendant No.1 was ordered to be proceeded ex-parte and the matter was adjourned for filing the written statement on behalf of defendant No.2. In the meantime, defendant No.1 filed the present application on 5.1.2024, before the date fixed for filing the written statement on behalf of defendant No.2.

It was laid down by Hon'ble Supreme Court in *Sangram Singh Vs. Election Tribunal AIR 1955 SC 425* that even if the Court had proceeded ex-parte against the defendant, the defendant has a right to join the proceedings from the stage, at which, they stand. It is only

if the defendant wants to undo whatever had transpired on the date when he was absent, he is required to file an application for setting aside the ex-parte order. This position was reiterated in *Arjun Singh Vs. Mohinder Kumar* AIR 1964 SC 993.

In the present case, since nothing had transpired on 28.12.2023 and the matter was simply adjourned for filing the written statement by defendant No.2, therefore, defendant No.1 had a right to join the proceedings on the adjourned date and file the written statement. Hence, the application is dismissed as having become infructuous.

Application stands disposed of.

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The written statement, if permissible under law, be filed within the statutory period and the matter be listed for filing of replication thereto within three weeks thereafter.

(Rakesh Kainthla)
Judge

21st May, 2024
(Chander)