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

CR-898-2023

Date of decision: 24.03.2026

Mukhtiar Singh

...Petitioner

Versus

Chanchal Singh (deceased) through his LRs

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Harminder Singh, Advocate for the petitioner.

Mr. K.S. Maangat, Advocate for the respondent(s).
(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 12.12.2022 (Annexure P-4) passed by the Civil Judge (Junior Division), Batala, whereby an application for setting aside the ex-parte proceedings dated 28.04.2022 has been dismissed.

2. On 09.02.2023, a Coordinate Bench of this Court was pleased to pass the following order:-

“Present: Mr. Harminder Singh, Advocate, for the petitioner.

Learned counsel for the petitioner inter alia submits that the petitioner was not served strictly in accordance with the



provisions of Order 5 CPC and the trial Court has not discussed or taken into consideration the plea urged, as given in the application seeking setting aside of the ex parte order.

Learned counsel submits that the present suit was instituted on 03.03.2021 and the record depicts that the defendant-petitioner was proceeded ex parte vide order dated 28.04.2022. However, during the pendency of the proceedings, the plaintiff-respondent filed another separate suit against the real brother of the defendant-petitioner on 20.08.2022 and in the said case in similar circumstances, the service was effected by munadi. On receiving of the copy of the plaint in the said suit, pendency of the present suit was learnt from the averment made in para 12 of the plaint dated 20.08.2022 (Annexure P-3), and immediately thereafter, the present application for setting aside the ex parte proceedings was filed. The learned Court has erred in returning a finding of negligence which is contrary to the record. Though the petitioner has been allowed to join proceedings, but from 21.11.2022 i.e. the date of making the application. As the case is at the initial stage, no prejudice would be caused to the other side if the petitioner is permitted to file written statement and contest the suit.

Notice of motion returnable for 28.02.2023.

Notice re: stay.

Process dasti as well.

Leave is granted to serve the respondent additionally through the learned counsel representing him before the trial Court.

February 09, 2023”

3. Thereafter, on 13.04.2023, a Coordinate Bench of this Court had directed the trial Court to give the date beyond the date fixed by this Court, which stay is continuing till date.

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4. Learned counsel for the respondent(s) has submitted that the respondent(s) had filed the suit for permanent injunction and at the time of passing of the impugned order, the plaintiff's evidence had been completed and thus, substantial progress has been made in the case and in case impugned order is to be set aside then the petitioner should be burdened with heavy cost as the suit of the respondent(s) has been delayed. It is further submitted that the petitioner be also directed to file written statement in a time bound manner and he should not delay the proceedings.

5. Learned counsel for the petitioner has submitted that the petitioner is ready to pay reasonable cost and has further submitted that the petitioner would abide by all the directions passed by this Court and would not delay the proceedings.

6. Keeping in view the abovesaid facts and circumstances and fair stand taken on behalf of the petitioner as well as respondent(s), the present revision petition is partly allowed and impugned order is set aside with the following observations/directions:-

- i) The petitioner would deposit an amount of Rs.25,000/- as cost on or before 30.03.2026 which is stated to be the next date of hearing before the trial Court and the said amount would be released to the respondent(s)-plaintiff by the trial Court. It is made clear that in case the said amount is not deposited within the aforesaid period, then, the present revision petition would be deemed to have been dismissed.
- ii) The petitioner would also file written statement on or before 30.03.2026 and after filing of the written statement, the trial Court would frame the issues as expeditiously as possible.



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iii) The plaintiff witnesses who have been examined would be produced by the plaintiff and on the date when plaintiff witnesses are produced, learned counsel for the petitioner would cross-examine the said witnesses and the petitioner would not seek any unnecessary adjournment in the matter.

7. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

24.03.2026

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No