

2025.PHHC:060583



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

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**CR-1603-2025 (O&M)**  
**Date of Decision: 07.05.2025**

**SANJAY SINGH AND ANOTHER** . . . . Petitioners

**Vs.**

**SHRI CHAND AND OTHERS** . . . . Respondents

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**CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA**

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Present: - Mr. Damanjit Singh Sandhu, Advocate, for the petitioners.

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**DEEPAK GUPTA, J.**

**CM-8348-CII-2025**

Application is allowed as prayed for.

Annexures P5 to P7 are taken on record.

**CR-1603-2025**

Civil Suit No.453 of 2014 filed by plaintiff-Sri Chand (*contesting respondent herein*) seeking a decree of permanent and mandatory injunction against defendants Sanjay and Madhuri (*petitioners herein*) & others was decreed *ex parte* vide judgment dated 06.09.2019 (Annexure P6) passed by Id. Civil Judge (Jr. Division), Ludhiana.

2. Defendants No. 1 & 2 i.e., petitioners herein moved an application under Order IX Rule 13 CPC for setting aside the *ex parte* judgment and decree dated 06.09.2019, but that was dismissed by the trial Court on 06.01.2020 and the appeal filed by them was dismissed by the Appellate Court on 05.02.2025.

3. Against the aforesaid orders, the present revision has been filed.

4. It is contended by Id. counsel that though the petitioners had engaged their counsel and they had also filed written statement, but their counsel went to Canada without informing them (*petitioners*). The petitioners were not informed by the Court regarding the absence of their counsel and it is because of that reason that they were proceeded against *ex parte* and ultimately the *ex parte* judgment and decree was passed against them. Id. counsel contends that the Courts below failed to consider the aspect that valuable rights of the petitioners-defendants No.1 & 2 are involved and therefore, the *ex parte* judgment and decree was liable to be set aside.

5. After hearing learned counsel for the petitioners at considerable length, this Court does not find merit in the revision.

6. A perusal of the judgment dated 06.09.2019 (*Annexure P6*) would reveal that defendants No.1 to 3 i.e., including the petitioners had appeared through their counsel and had filed a composite written statement, refuting the claim of the plaintiff. However, later on nobody appeared for the defendants-petitioners and so, they were proceeded *ex parte* on 23.07.2019.

7. In the application moved under Order IX Rule 13 CPC for setting aside the *ex parte* judgment and decree, the trial Court had framed issue '*as to whether there was sufficient ground to set aside the ex parte judgment and decree dated 06.09.2019?*'. Based upon the evidence placed on record, it has been found by the Courts below that petitioners-defendants failed to prove that their counsel had gone abroad without informing them; or that they were not aware about the proceedings of the case.

8. In view of the aforesaid circumstances, the Courts below rightly observed that in case the counsel was not appearing, it was incumbent upon the party to appear itself in the Court so as to know about the status of the case. Petitioners failed to give any cogent justification regarding their

keeping silence over their rights despite having knowledge of the pendency of the suit against them.

9. In these aforesaid circumstances, this Court does not find any ground to interfere in the impugned orders passed by the Courts below, whereby the application under Order IX Rule 13 CPC moved by the petitioners was dismissed and the appeal against that order was dismissed by the Appellate Court.

10. Holding the present petition to be devoid of any merit, in the absence of any perversity and illegality, the present petition is hereby dismissed.

**07.05.2025**

*Vivek*

**(DEEPAK GUPTA)**

**JUDGE**

*Whether speaking/reasoned?*

**Yes**

*Whether reportable?*

**No**