

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

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**CR-3954-2024
Date of decision : 24.04.2025**

Parmod Kumar Nigam **Petitioner**

versus

Saroj Nigam and others **Respondents**

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

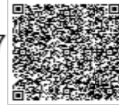
Present: Mr. Kamal Chaudhary, Advocate
for the petitioner.

Mr. Abhinav Sood, Advocate and
Mr. Sayyam Garg, Advocate
for the respondents.

PANKAJ JAIN, J. (Oral)

1. Challenge is to the order dated 06.05.2024 passed by Civil Judge (Jr. Divn.), Faridabad whereby application filed by petitioner-defendant under Order IX Rule 7 read with Section 151 Code of Civil Procedure for recalling order dated 15.01.2018/03.05.2018, whereby the defendant was ordered to be proceeded ex-parte in the civil suit stands dismissed. However, he has been granted liberty to join the proceedings from the present stage of the suit and lead evidence in his defence.

2. Counsel for the petitioner submits that even though the petitioner has been granted liberty to join the proceedings, however, in the absence of any pleading on his behalf on record, the liberty granted to lead evidence will not serve any meaningful purpose. He thus,



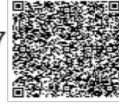
submits that the petitioner be allowed to file his written statement and should be allowed to cross examine the witnesses examined by the plaintiff.

3. *Per contra*, Mr. Sood submits that the application filed under Order IX Rule 7 by the petitioner was nothing, but an abuse of process of law. Despite being in knowledge of the pendency of the proceedings, petitioner deliberately opted to be a fence sitter and thereafter moved present application under Order IX Rule 7, once the suit was about to conclude.

4. I have heard counsel for the parties and have carefully gone through the records of the case.

5. Trial Court rightly held that the defendant failed to disclose sufficient cause for not appearing despite service and moved the present application approximately after 05 years. However, at the same time, it will be in the interest of both the parties that once defendant has been allowed to join the proceedings, he should be allowed to bring on record his stand.

6. In view of above, order dated 06.05.2024 is modified to the extent that the defendant is allowed to file his written statement. Trial Court shall frame issues on the basis of pleadings. Witnesses examined by the plaintiff be recalled and one opportunity be granted to the defendant to cross examine them. Thereafter, two opportunities will be granted to each of the parties to lead entire evidence. The exercise be completed preferably within 12 months from the date of receipt of certified copy of the order. Further, in order to balance the



equities, the petitioner-defendant is saddled with the cost of Rs.25,000/- to be paid to the respondents.

7. Disposed off, accordingly.

(PANKAJ JAIN)
JUDGE

24.04.2025

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Whether speaking/reasoned : Yes

Whether Reportable : No