

22.07.2025.

Present Sh. Vipin Pandit, Advocate for petitioner.
Sh. Rajiv Thakur, vice Counsel for
respondents no. 2 & 3.
Sh. Akshay Tanwar, Advocate for respondent
No. 1(though ex-parte)

Taken up today from effective hearing.

Heard.

2. This order shall dispose of application filed under Order 9 rule 7 CPC for setting aside order dated 27.08.2024. It is averred in the application that applicant is a simple rustic villager and due to lack of formal education, he mistakenly believed that the summons served upon him pertained to a different criminal case registered against him under Section 279 IPC which is pending before Ld. CJM, Solan and he could not appear before this Court on 27.08.2024 and due to his non-appearance Court has pleased to proceed the applicant ex-parte on 27.08.2024. It is further averred that the non appearance on that day was neither intentional nor deliberate. With these averments, it is prayed that application may be allowed.

3. Ld. Counsel for the respondent/petitioner vide his separate statement has no objection, if the application is allowed.

4. Heard. Record perused.

5. The reason stated by the applicant for his non appearance on the day of default is that he inadvertently failed to appear before the Court. The said reason is duly supported by the affidavit of the applicant and therefore, the same appears to be satisfactory and sufficient for appearance of applicant on the day of default. As such, considering the reason to be justified and also in view of the settled principle of law that the matter should be decided on its merits without giving undue weightage to the procedural. Accordingly, application in hand is allowed and ex-parte order dated 27.08.2024 is hereby set-aside.

Application after its due completion be tagged with main case file.

6. Case be now listed for filing reply on behalf of respondent no. 1 on 04.09.2025. Rejoinder to reply filed on behalf of respondents No. 2 and 3 be also filed on the date so fixed.

sd/-

(Abhay Mandiyal)
MACT-II, Solan, H.P.