

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

**CR No.1350 of 2015
Date of Decision:25.02.2015**

Harmeet Singh Ghai

. . . . Petitioner

Vs.

Kailash Tarneja

. . . .Respondent

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Ashok Tyagi, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner is aggrieved against the order dated 4.11.2014 by which his application filed under Order 8 Rule 10 read with Section 151 of the Code of Civil Procedure, 1908 [for short 'the CPC] has been dismissed.

Learned counsel for the petitioner has submitted that the written statement has been filed through Sh. Nihit Nagpal, Advocate as Special Power of Attorney of the defendant, who has also filed his power of attorney (Vakalatnama) as an Advocate in this case. He has also submitted that insofar as verification in the written statement is concerned, it is not properly done as in the verification, name of Nihit Nagpal is not mentioned. It is thus submitted that the suit of the plaintiff should be decreed considering the written statement having not been filed by a proper person.

In support of his argument he has relied upon a judgment of the Bombay High Court in the case of "**Oil and**

Natural Gas Commission Vs. Offshore Enterprises Inc.” 1993
AIR (Bombay) 217.

I have heard learned counsel for the petitioner and after examining the record, am of the considered opinion that there is no merit in his arguments because the Court below has observed in its order that Nihit Nagpal, Advocate has not appeared in this case as a counsel for the defendant and had only appeared in the capacity of his power of attorney.

In view thereof, the decision relied upon by the learned counsel for the petitioner in the case of ***Oil and Natural Gas Commission (Supra)*** is not applicable because in that case the Court has observed that an Advocate is not entitled to act in a professional capacity as well as constituted attorney.

Secondly, the written statement has been admittedly filed by Nihit Nagpal as a special power of attorney but there appears to be a typographical error in the affidavit because in the verification his name did not appear as power of attorney of Kailash Tarneja. This error can always be rectified by the defendant by filing another affidavit.

In view thereof, I do not find any merit in the present petition and the same is hereby dismissed.

25.02.2015

Vivek

(RAKESH KUMAR JAIN)
JUDGE