

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R No.1638 of 2015

Date of Decision.09.03.2015

Future Generali India Life Insurance Company LimitedPetitioner

Versus

Mukesh Kumar and others

.....Respondents

Present: Mr. Rakesh Kumar Garg, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The revision petition is against the order striking out the defence of the 1st defendant when he did not file the written statement within 90 days. The petition was filed on a plea that defendants No.2 and 3 are represented through counsel and by the similarity of names, the 1st defendant who was unserved was thought to be represented by the counsel appearing on behalf of defendant Nos.2 and 3. The counsel would state that even prior to the institution of the suit, the policy under which the plaintiff claims has been repudiated and therefore, there was a valid defence to be taken before the Court. The 1st defendant was not even served with summons and therefore, when he filed an application to set aside the ex parte order and filed the written statement, the Court ought to have received the same.

2. Under normal circumstances, I would have issued notice to the other side and elicited all these details. If it is a case of defence

being struck off without the party being served with notice through Court, I will not think that it is necessary to waste the time of the Court for issuing notice and seeking for objection from the other side.

3. I set aside the order passed by the Court below and direct the Court to receive the written statement and then frame issues and dispose of the case in accordance with law. The respondents-plaintiffs are at liberty to approach this Court for review if there is any misrepresentation or suppression of fact which is made before me for rethink of this order. The order passed already is set aside and the petitioner-1st defendant shall be at liberty to file the written statement within two weeks from today and if such written statement is filed, the Court is ordered to receive the same and dispose of the case in the manner directed above.

4. The revision petition is disposed of.

(K. KANNAN)
JUDGE

March 09, 2015
Pankaj*