

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

C.R. No.7164 of 2013 (O&M)

Date of Decision.30.03.2015

M/s Jhadhav Tractors and another

.....Petitioners

Versus

M/s Mahindra & Mahindra Ltd.

.....Respondent

Present: Mr. Pankaj Jain, Advocate
for the petitioners.

Mr. J.S. Mehndiratta, Advocate
for the respondent.

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. There is simply no justification for intervention for dismissal of the defence and allowing for further proceedings to go for summary suit instituted for recovery of sum over ₹ 2 crores. In a normal situation under Order 37 Rule 1 CPC for recovery of money by summary procedure, on the summons being served, the petitioner is bound to seek for reply to defend within a period of 15 days and if it is not done on the first date of hearing itself, the summons of judgment must have been passed. The procedure prescribed under Order 37 CPC is distinct in that frivolous defences are not taken or adjournments are not simply sought at the asking which are the bane of normal proceedings. If the petitioner could file an application for obtaining a leave to defend and that leave was also granted, then the written statement is bound to be

filed on the day when the case was fixed for hearing. As otherwise, the Court was bound to deliver the judgment on that day itself. The case was posted for written statement on 11.07.2013 and at his request, the case was adjourned to 27.07.2013 on payment of costs. The costs had been paid on the subsequent date on 26.08.2013 but still the written statement was not filed. It was on that day when the Court passed the impugned order.

2. The justification for not filing the statement by the petitioner is that he is 88 years old and he had to be coming a long distance from Gujarat to Mohali. A person who comes from Gujarat ought to know that he is not arriving in the Court only to waste time or to seek time to file the written statement. The counsel for the petitioner argues that he had also medical illness and therefore, he could not file the written statement. I wanted to elicit from the petitioner as to what was the medical condition and when he could arrive all the way from Gujarat to Mohali, why he could not still file the written statement. The counsel is unable to give any details of illness. A procedure established in law that fast tracks the proceedings ought to be given some meaning and if a party would only be taking it in a lackadaisical fashion and taking his own time, I do not think that he should be benefitted with any further opportunity.

3. The counsel for the petitioner argues that delay in filing the written statement could be compensated by terms. If there is some reason given which is capable of being accepted, I would have considered the request for terms. In a situation where the claim is more than ₹ 2 crores and in a summary proceeding where the case instituted

in 2013 has still not been concluded, there is something seriously wrong. Even the Presiding Officer was completely unjustified in posting the case from time to time after the written statement was not filed. He was bound to deliver the judgment immediately and the Presiding Officer has allowed things to drift by adjourning the case to another date. The judgment must have been pronounced on the same day when the written statement was permitted to be filed and when it was not filed.

4. I will find no cause for intervention. The revision petition is dismissed.

(K. KANNAN)
JUDGE

March 30, 2015
Pankaj*